

HISTORY OF  
THE BUREAU OF LABOR AND INDUSTRY

by  
C. Wilder Smith  
Deputy Commissioner

June 1, 1970

---

Madge E. Ames  
Deputy Director

June 1, 1974

1st Edition July 1, 1965

1st Revision June 1, 1970

2nd Revision June 1, 1974

## I N D E X

### PAGE

1 - PREFACE
6 - INDUSTRIAL SAFETY
12 - CONSTRUCTION SAFETY
17 - OSHA: Occupational Safety and Health Act
18 - MAINE STATE SAFETY CONFERENCE
19 - LABOR LAWS AFFECTING WOMEN
28 - CHILD LABOR
42 - MINIMUM WAGES
54 - WEEKLY PAYMENT OF WAGES
58 - PAYMENT ON CESSATION OF EMPLOYMENT
60 - BOILER LAWS
72 - LAWS PERTAINING TO ELEVATORS
78 - STATE BOARD OF ARBITRATION AND CONCILIATION
83 - PANEL OF MEDIATORS
85 - ARBITRATION PURSUANT TO COLLECTIVE BARGAINING CONTRACTS
87 - MUNICIPAL PUBLIC EMPLOYEES LABOR RELATIONS LAW
91 - STATE EMPLOYEES LABOR RELATIONS LAW
92 - VOLUNTARY APPRENTICESHIP SYSTEM
95 - MINIMUM WAGES FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS
99 - BEDDING; UPHOLSTERED FURNITURE
104 - STUFFED TOYS
106 - FAIR EMPLOYMENT PRACTICE ACT
107 - STRIKEBREAKERS
108 - AN ACT REGULATING INDUSTRIAL HOMEWORK
109 - CONCLUSION
115 - ADDENDUM - TERMS OF COMMISSIONERS
116 - ADDENDUM - DEPARTMENT OF MANPOWER AFFAIRS
117 - ADDENDUM - RELATED GOVERNMENT AGENCIES

## HISTORY OF THE BUREAU OF LABOR AND INDUSTRY

History, in its written form, is a documentation of the experience of mankind. Present day society is a portrait of man's reaction to all that has happened and reflects what has been done by him to resolve the problems and complexities of his life. Mankind is continually learning that there is a reason for everything; that given time all things fit into an interlocking puzzle and the ultimate pattern becomes clear and logical for all to see. The development of government is no exception and a study of it further emphasizes the cause and effect design of life.

The Bureau of Labor and Industry is a modern day organization designed to serve the people of the State in the areas of activity specifically assigned to it. It too is the end product of a gradual evolution beginning from and accelerated by problems encountered by the citizenry in day by day living. While not the ultimate in design or scope, it does substantially assist in the maintenance of an orderly operation of human relationships developing out of industrial activity.

Prefacing development of the Bureau up through the years, the first reference to the need for a service that was not then available came in the year 1872. In the address of Governor Sidney Perham to the Fifty-first Legislature it was specifically stated that "We need to know just what complete statistics of all the different kinds of business, and the more important facts connected with our social life, would furnish." In the address of Governor Perham to the Fifty-second Legislature the following year he made reference to his statement of the previous year and stated that he hoped the legislature then convened would "provide for

the performance of this work by one of the State departments, or by the appointment of an officer for this special duty." We now note that under the Resolves of the State of Maine for 1873 an activity was authorized relating to industrial statistics and placed under the direction of the Secretary of State. This Resolve further provided "there be annually collected, arranged, and printed, in condensed form, statistical details, relating to all departments of labor in the state, especially in its relation to manufacturing, mining, commercial and industrial interests, together with the valuation and appropriations for various purposes, of the several towns and cities of the state." As a result of the authorization now given there appeared at the end of the year 1873 a report entitled "The Wealth and Industry of Maine," the first compilation of Industrial Statistics of Maine, an activity continued down through the years to the present day, changed, of course, by the requirements of the times. This first printed report was followed by a second volume covering the years 1883-86. It referred to the difficulty encountered in compiling adequate data primarily because of the unfamiliarity of the assessors and other municipal officers in making returns to state officers.

It now appears that the need for and value of the variety of information as referred to in Governor Perham's original reference was firmly established. The Sixty-third Legislature in the year 1887 passed a law establishing a separate and distinct department known as the Bureau of Industrial and Labor Statistics. This action removed the activity of gathering and preparing statistical data as originally authorized from the office of the Secretary of State to the new entity and in this manner was created the agency that today is known as the Bureau of Labor and Industry.

The new Bureau was empowered to take over the task of gathering statistical data and was required to present the information annually to the legislature. Provision was made for the establishment of a commissioner and this officer's powers and duties were properly defined. The original resolve of 1873 was repealed and thus the department was launched. It should be noted that Mr. S. W. Matthews was the first commissioner and that the first annual report of the Bureau of Industrial and Labor Statistics was prepared by him. This report emphasizes the need to inform the public as to the specific responsibilities of the new department and to establish the statistical reporting function as its basic activity. It needed to be spelled out that the new department was not a Labor Bureau and could not become involved in questions of strife, wages, etc. It was only after a long time, most extensive correspondence, and the fullest explanation, that this obstacle to the work was largely overcome.

Following the developments of the new department leads one up through the years to 1911. Here again we note a distinct break-off with the past, indicated by the formation of a new department. In Chapter 65 of the Public Laws of 1911 we find a provision for the establishment of a Department of Labor and Industry, a name that remained in effect until 1972 when the Department became the Bureau of Labor and Industry within a new Department of Manpower Affairs. While the statistical functions of the predecessor department still stayed on in the new bureau with no lessening of its importance, additional responsibilities were now assumed. This newly created department was specifically charged with the responsibility of enforcing all laws regulating the employment of children, minors and women; all laws established for the protection of the physical

well-being of factory workers and also for the payment of wages. Dating from the establishment of the Department of Labor and Industry in 1911, we find a gradual expansion of its field of activities as succeeding legislatures saw fit to turn over to it the enforcement responsibilities it now holds.

In its present day form the Bureau of Labor and Industry is organized into divisions, each responsible in its particular area. Carrying on the work originally established back in 1873 is the Research and Statistics Division supplying pertinent data so much used today in industrial development. In this electronic age data processing and like activities precede all comprehensive studies and supply basic information for developmental plans. The Division of Minimum Wage and Child Labor carries out the functions indicated in its title, working to insure that workers are paid their wages in the required amounts and at the proper time, including premium pay for overtime work, and that young people are protected in their early work experiences. In addition to effectively maintaining higher working standards made possible by progressive legislation already passed there remains in the future much work to be done to create proper and acceptable working conditions for Maine's labor force. Industrial safety becomes more and more a problem to be met with renewed effort to develop effective plans to cut down hazards in industry. Increased use of complex machinery creates situations where injuries frequently occur. Human and economic loss challenges the Bureau in its search for ways to minimize the impact. Along with the above responsibilities have been given those of boiler and elevator inspection and administration of the bedding and upholstered furniture law. This law

was amended in 1963 to include stuffed toys.

Following a national trend toward increased activity in collective bargaining in the public sector, the Legislature in 1969 provided the machinery for supervision of collective bargaining between municipal employees, and their employers, establishing a Public Employees Labor Relations Appeals Board and giving the Commissioner the initial authority to make decisions. In 1972, the Board name was changed to Public Employees Labor Relations Board and the duties heretofore assigned to the Commissioner were taken over by the Executive Secretary of the Board, which still remained under the wing of the Bureau of Labor and Industry. Subsequently, in 1974, collective bargaining rights were extended to state employees, to be effective January 1, 1975, thus broadening the responsibilities of the Board to a new area of labor relations.

In the following pages the development of laws relating to the various divisions have been carefully noted in the sequence of passage. Many of these acts repealed or amended previous acts. Others established new principles as regards specific problems. While this section has value as a documentary of law-making activity, it also discloses the gradual evolution of a more progressive approach to the affairs of labor and industry.

## INDUSTRIAL SAFETY

In an industrial society the problem of adequately protecting the workers from accidental injury is of great importance. Aside from humanitarian reasons, the economic losses resulting from compensation costs, medical expense, and loss of wages, as well as the indirect costs, are of serious consideration to all parties concerned. The present Division of Industrial Safety, through inspection and educational programs, attempts to decrease the impact of work injuries to the fullest extent possible.

An examination into the history of the Division of Industrial Safety discloses a lesser amount of legislative activity than has occurred in the development of most other divisions. This is paralleled by little emphasis in the early reports of the Commissioners of Industrial and Labor Statistics as to the need for such legislation.

Deputy  
Commissioner

As a prelude to legislative development it should be noted that in 1887, P. L. Ch. 139, Sec. 9, provision was made for appointment by the governor of a deputy commissioner of labor. His duties included inquiring into any violations of that act which related to the hours of employment of women and children in manufacturing and mechanical establishments. In 1893, P. L. Ch. 220, the official title of this officer was changed to Inspector of factories, workshops, mines and quarries. From that point on the development was as follows:

Factory  
Inspector

Duties

1893 - P. L. Ch. 292, Sec. 2 -- This Act authorized and required the Inspector of Factories, Workshops, Mines and Quarries "to examine into the sanitary condition of factories, workshops, mines and



quarries and where any condition or thing is found that, in his opinion, endangers the health or lives of the employees he shall notify the local board of health, and it shall be the duty of said board to investigate the matter."

Swinging  
Doors

Sec. 3 - "It shall be the duty of the Inspector of factories, workshops, mines and quarries to enforce the due observance of sections twenty-five and twenty-six of chapter twenty-six of the revised statutes relating to the swinging of doors in all factories and workshops."

1903 - R. S., Ch. 40, Sec. 40 to 58 inclusive, included all acts passed subsequent to the last previous revision.

1911 - P. L. Ch. 65 -- This Act provided for a Department of Labor and Industry and prescribed its duties and powers.

Sec. 2 - This section stated the duty of the department and included investigation into the "moral and sanitary conditions prevailing within the state."

Sec. 4 - This section provided the first mechanical safety act and was limited to certain conditions in manufacturing and mechanical establishments and workshops. It provided for right of entry under penalty for refusing entrance or information of not more than \$100 or for imprisonment for not more than 90 days or both. It provided further that it was the duty of the commissioner or his agent to inspect for certain listed hazards. To quote, "If the commissioner as state factory inspector, or any authorized agent of the department of labor, shall find upon such inspection that the heating, lighting, ventilation or sanitary arrangement of any workshops or factories is such as to be injurious to the health of

List of  
Hazards  
Covered

the persons employed or residing therein or that the means of egress in case of fire or other disaster are not sufficient, or that the belting, shafting, gearing, elevators, drums, saws, cogs and machinery in such workshops and factories are located or are in a condition so as to be dangerous to employees and not sufficiently guarded, or that vats, pans, or any other structures, filled with molten metal or hot liquids, are not surrounded with proper safeguards for preventing accidents or injury to those employed at or near them, he shall notify, in writing, the owner, proprietor or agent of such workshops or factories to make, within thirty days, the alterations or additions by him deemed necessary for the safety and protection of the employees: and if such alterations or additions are not made within thirty days from the date of such written notice, or within such time as said alterations or additions can be made with proper diligence upon the part of such proprietors, owners or agents, said proprietors, owners or agents so notified shall be deemed guilty of a misdemeanor, and upon complaint of the commissioner as state factory inspector before a court of competent jurisdiction, and upon conviction thereof, shall be fined in a sum not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment not more than thirty days, or by both such fine and imprisonment."

**Reporting  
of  
Accidents**

1911 - P. L. Ch. 102 -- This Act provided that all serious injuries be reported to the commissioner. It required that "the person in charge of any factory, workshop or other industrial establishment shall report in writing to the commissioner of labor all deaths,

accidents, or serious physical injuries . . . within ten days . . . or further information relative thereto as may be required by said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported."

1916 - R. S., Ch. 49, Sec. 12 is carried forward unamended.

1930 - R. S., Ch. 54, Secs. 12 and 13 are carried forward unamended.

1944 - R. S., Ch. 25, Secs. 4 and 5 are carried forward unamended.

1947 - P. L. Ch. 208 -- This Act amended Sec. 5 of Ch. 25 of the Revised Statute of 1944 by enlarging the scope of facilities inspected by the commissioner as state factory inspector to specifically include "fire escapes and/or other means of egress." It also added "appurtenances" to elevators and included "Inflammables."

Fire  
Escapes  
and  
Inflammables  
Covered

Governor's  
Address

The Importance of Industrial safety to the economy of the state was noted by Governor Frederick G. Payne who said, in his inaugural address of 1951, p. 1168:

"We are headed into a period of manpower shortages. Every lost hour of production will be a tragic loss to the country in the critical days ahead. It is essential, therefore, to maintain our industrial safety activity at consistently high level to minimize lost time because of accidents.

"We should scrutinize our industrial safety laws to determine if need exists to broaden them."

Governor's  
Address

Further emphasis was placed on this same subject by Governor

Burton M. Cross who said in his Inaugural address of 1953, p. 985-6:

"I urge legislation to promote greater industrial safety and to revise the present death benefit schedule for accidental death or injury under our workmen's compensation law."

But at neither of the two legislatures was the basic industrial safety act amended.

1954 - R. S., Ch. 30, Sec. 4 and 5 carries forward the previously R. S. of 1944 as amended by 1947, P. L., Ch. 208.

1955 - P. L. Ch. 466, Sec. 1 amended Sec. 4, Ch. 30, R. S., 1954 by adding "construction activity" to the businesses where the Commissioner as State Factory Inspector may enter for purposes of inspection. Sec. 2 amended Sec. 5, Ch. 30, R. S., 1954 by adding a new paragraph that outlined the duties of the commissioner when violation of the rules and regulations were found in a construction activity to immediately correct such violation.

1965 - P. L. Ch. 200, Sec. 1 amended R. S., Title 26, Sec. 45 by repealing it and enacting in its place the following:

"The work places, equipment, tools and working conditions provided by an employer shall be reasonably safe and not in such condition as to be hazardous to the employee engaged therein. If, upon inspection, the commissioner or any authorized agent of the department shall find that an existing condition is such as to be injurious to the health of the persons employed or residing therein by reason of inadequate heating, lighting, ventilation or sanitary arrangement, or that reasonable safeguards for preventing

accidents or injuries to those employed are not provided, he shall notify, in writing, the employer, proprietor, or agent operating such work place to make, within 30 days, the alterations or additions by him deemed necessary for the reasonable safety and protection of the employees. In case of extraordinary hazard, the commissioner or his agent may demand that the hazard be removed immediately."

Sec. 2, R. S., Title 26, Sec. 45-A additional. This section amended Title 26 of the Revised Statutes by adding a new section 45-A which reads as follows:

**Exemptions**

"Sec. 45-A. Application of sections 44 and 45. Sections 44 and 45 shall not apply to work on a farm or in or about a private residence, commercial fishing or logging nor to employment in any Federal Government establishment nor to any activity subject to the control of the Interstate Commerce Commission, or the Maine Public Utilities Commission."

1967 - P. L. Ch. 100, Subsection 3 of Sec. 1 amended by substituting word "performed" for words "exercised by way of trade" following words "manual labor is . . ."

**Workshops**

1967 - P. L. Ch. 494, Sec. 21. The first sentence of Sec. 45 of Title 26 R. S., as repealed and replaced by Sec. 1 of Ch. 200 of the Public Laws of 1965, is amended to read as follows: "The workshops, equipment, tools and working conditions provided by an employer shall be reasonably safe and not in such condition as to be hazardous to the employee engaged therein."

**Reporting**

1969 - P. L. Ch. 274, Sec. 1 amended R. S., Title 26, Sec. 2 by requiring that all deaths and serious physical injuries must be reported within 48 hours, exclusive of weekends and holidays.

**Policy**

1969 - P. L. Ch. 454 established a Board for the purpose of adopting safety rules and regulations for industry which would be more specific than the general areas previously outlined in the statutes. This followed the lines of a similar board already established for the construction industry (see Construction Safety).

**Board**

Sec. 564 -- Establishment of board; purpose. The purpose of the Board of Occupational Safety Rules and Regulations is to formulate and adopt "safety rules and regulations to provide reasonably safe and healthful working conditions for all employees, other than those exempt . . ."

"The board shall consist of 7 members of which 6 shall be appointed by the Governor with the advice and consent of the Council. Of the 6 appointed members of the board, 2 shall represent employers; 2 shall represent employees; one shall represent an insurance company licensed to insure Workmen's Compensation within the State and one shall represent the public. The 7th member of the board shall be the Commissioner of Labor and Industry."

**Powers  
and  
Duties**

Sec. 565 -- Powers and duties of board. "The board shall formulate and adopt reasonable rules and regulations for safe and healthful working conditions, including rules requiring the use of personal protective equipment. The rules and regulations so formulated shall conform as far as practicable to nationally recognized standards of industrial safety . . . The board may at its

discretion appoint ad hoc single industry's committees to advise and counsel the board on rules and regulations needed for the protection of the workers engaged in the industry."

Sec. 569 -- Rules and regulations. "The rules and regulations formulated under this chapter may supplement, but shall in no manner supersede, the rules and regulations duly promulgated by the Board of Boiler Rules, the Board of Construction Safety Rules and Regulations and the Board of Elevator Rules and Regulations, whose rule making authority is clearly set forth in sections 173, 373 and 432, respectively."

1971 - P. L. Ch. 302 amended R. S., Title 26, Sec. 371 by clarifying the definition of the term "construction."

1971 - P. L. Ch. 446, Sec. 1, amended R. S., Title 26, by again repealing Sec. 45 and enacting in its place the following:

"The workshops, equipment, tools, working conditions and conditions of a construction activity provided by an employer shall be reasonably safe and not in such condition as to be hazardous to the employee engaged therein. If, upon inspection, the commissioner or any authorized agent of the department shall find that an existing condition not covered by the rules and regulations of the Occupational Safety Rules and Regulations Board, or the Construction Safety Rules and Regulations Board is such as to be injurious to the health of the persons employed or residing therein by reason of inadequate heating, lighting, ventilation or sanitary arrangement or for any other reason, or that reasonable safeguards for preventing accidents or injuries to those employed are not

provided, he shall order, in writing, the employer, proprietor or agent operating such work place to make, within 30 days, the alterations or additions by him deemed necessary for the reasonable safety and protection of the employees. In case of extraordinary hazard, the commissioner or his agent may order that the hazard be removed immediately.

Any person aggrieved by any such order may appeal from such order as provided in section 7."

Sec. 2 amended R. S., Title 26, by adding a new sec. 373-A, to read as follows:

"If, upon inspection or investigation, the commissioner or his agents determine that any employer or employee or any person engaged in construction has violated any rule or regulation promulgated under section 373 or 565, he shall issue such orders as are deemed to be necessary to enforce such rule or regulation. Any employer or employee who has been found in violation of any rule or regulation or who refuses to obey the order of the commissioner may be punished by a fine of not more than \$200 for each violation. Each violation shall be a separate offense. When the violation is of a continuing nature, each day during which it continues after a reasonable time specified in the order shall constitute a separate offense, except during the time of appeal as provided in section 374."

Sec. 3 amended R. S., Title 26, by repealing sec. 374 and enacting in its place the following:

"Any person aggrieved by an order or act of the commissioner or



of an inspector of the department under this chapter may, within 15 days after notice thereof, appeal from such order or act to the board which shall hold a hearing thereon, and said board shall, after such hearing, issue an appropriate order either approving or disapproving said order or act.

Any such order of the board or any rule or regulation formulated by the board shall be subject to review by the Superior Court held in and for the county in which the operation is located at the instance of any party in interest and aggrieved by said order or decision. Such appeal shall be prosecuted by complaint to which such party shall annex the order of the board and in which the appellant shall set forth the substance of and the reasons for the appeal. Upon the filing thereof, the court shall order notice thereof. Upon the evidence and after hearing, which shall be held not less than 7 days after notice thereof, the court may modify, affirm or reverse the order of the board and the rule or regulation on which it is based in whole or in part in accordance with the law and the weight of the evidence. The court, upon hearing, shall determine whether the filing of the appeal shall operate as a stay of any order pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper."

Sec. 4 amended R. S., Title 26, by strengthening, the general enforcement section 567. It changed "and" to "or" which had the effect of making a first offense a violation if the offender refused to obey an order of the commissioner.

Sec. 5 amended R. S., Title 26 by adding two new sections 580 and 581 to give authority to the Commissioner of Agriculture to "adopt, after public hearing, administer and enforce standards, rules and regulations" so that "all workers engaged in agricultural labor in the State shall be protected from hazards to their safety or health and that working conditions shall be maintained that will be reasonably free of hazards to their safety and health."

1973 - P. L. Ch. 418 amended Title 26 by adding a new section 48 to read as follows:

"All reports to the Bureau of Labor and Industry involving deaths, injuries and occupational diseases shall be available to the injured employee, his survivors or representatives upon written request and upon payment of reasonable cost for the copies."

## CONSTRUCTION SAFETY

1953 - Res. Ch. 191, p. 970 -- Resolve, to Create a Special Committee to Study Safeguards in Construction Projects.

### Construction Safety Committee

This resolve established a special committee "consisting of 2 persons representing the construction industry and 2 persons representing employees in the construction industry, to be appointed by the governor with the advice and consent of the council; one member from the senate appointed by the president of the senate; and one member of the house of representatives to be appointed by the speaker of the house of representatives; the commissioner of labor and industry who shall serve as chairman."

The committee was "empowered to investigate and study all accident factors in the construction of buildings, works or other projects with the objective to prevent accidents in such projects and to protect the worker and the public from undue hazards."

The committee, composed of the following, met four times and reported to the 97th legislature. (1)

Mr. William Salter of Stewart and Williams, Augusta, and Mr. Erik Sanders of Sanders Construction Company, Portland, from the construction industry; Mr. George Bates, Bangor, and Mr. Walter Reynolds, Augusta, both of the United Brotherhood of Carpenters and Joiners of America, AFL, representing employees in the construction industry; the President of the Senate, Senator Haskell,

---

(1) The Special Committee to Study Safeguards in Construction Projects.

appointed Senator Jean C. Boucher, Lewiston, and the Speaker of the House of Representatives, Dr. Bates, appointed Representative Albert West, Stockton Springs, from the Legislature; and, by authority of Ch. 191, Res. of 1953, the Commissioner of Labor and Industry, Miss Marion E. Martin, served as Chairman.

The Committee met at the call of the chair on the following dates to carry out the directives of the 96th Legislature:

November 4, 1953  
April 29, 1954  
October 1, 1954  
December 6, 1954

The Committee found, "in the period from January 1950 through September 1954, that there were 30 fatalities in the Maine construction industry or 20.2% of the total 148 fatalities reported to the Maine Industrial Accident Commission for the same period.

"In this same period there were 4466 disabling work injuries in the Maine construction industry, or 10.7% of the estimated total non-agricultural disabling work injuries reported to the Industrial Accident Commission, resulting in an injury rate of 78.8 disabling work injuries per thousand of average employment in the construction industry - two times higher than the 37.9 in manufacturing, and  $2\frac{1}{2}$  times higher than the 31.2 for all non-agricultural industry. While accounting for 10.7% of the total disabling work injuries in Maine, the construction industry accounted for only 4.2% of the average total of non-agricultural employment."(2)

---

(2) Report of "The Special Committee to Study Safeguards in Construction Projects - Report to 97th Legislature, January 1, 1955," Reference on page 4 - Findings and Recommendations.

They stated that "it is evident that a serious accident problem exists in the Maine construction industry." It recommended the following proposals:

Board  
Established

"I. An Act Creating the Board of Construction Safety Rules and Regulations. This Board to draft a standard safety code for the Maine construction industry and to revise and supplement that code as time and experience reveals the necessity.

"II. Certain amendments to the Labor Laws, Ch. 30, R. S. 1954, to implement the aforesaid act and thereby afford protection to the people of Maine, and

"III. An amendment to the Workmen's Compensation Act, Ch. 31, R.S. 1954, to induce construction employers of one or more workers to assent to the Act by removing their common law defenses, should they not assent, and would in some measure better protect the Maine construction worker and his family and at least minimize their personal loss from work injuries."

This report resulted in action at the 1955 session of the legislature, when the following was adopted.

1955 - P. L. Ch. 466, Sec. 5 -- This Act did three things, as follows:

1. Established a Board of Construction Safety Rules and Regulations. This Board was created and established "for the purpose of formulating and adopting reasonable safety regulations and codes in order to provide for personal, material and public safety in connection with construction, and such other activities usually associated with the construction industry. The said Board shall consist of 8 members of which 6 shall be appointed to membership

by the Commissioner of Labor and Industry, subject to the approval of the governor and council. Of the 6 appointed members of the Board, 2 shall represent the construction contractors within the State; 2 shall represent the construction workers within the State; one shall represent the insurance companies licensed to insure Workmen's Compensation within the State; one shall represent the public. The 7th member of the Board shall be the Commissioner of Labor and Industry and the 8th member shall be the Insurance Commissioner."

**Enforcement  
of Rules**

2. Provided for the administration of construction activity inspection by adding the following: "If the Commissioner or any authorized agent of the Department shall find . . . that conditions . . . are in violation of the rules and regulations . . . he shall notify immediately the contractor or person in charge of such activity to make alterations or additions . . ." In cases of immediate hazard" . . . he may conspicuously affix a written notice or tag to the object or device or to the part thereof declared to be unsafe. After such notice has been served or affixed, all persons shall cease using until . . . is altered or strengthened . . ."

3. Included the words "construction activity" in all appropriate sections pertaining to industrial safety;

The customary provision relating to tenure, filling vacancies, etc., were contained in the Act.

**Construction  
Defined**

Construction was defined and limited to persons or corporations "having 5 or more employees, and shall not apply to construction for self use."

Board  
Authorized  
to  
Write Rules

Duties and powers of the Board were defined as follows: "The Board shall formulate and adopt reasonable rules and regulations for safe and proper operations in construction within the State. The rules and regulations so formulated shall conform as far as practicable to the standard safety codes for construction. Such rules and regulations shall become effective 90 days after the date they are adopted; provided, however, that before any rules and regulations are adopted a public hearing shall be held after suitable notice has been published in at least 3 daily newspapers within the State."

Provision was made in case "any person aggrieved by an order or act of the inspector or the Department could enter an appeal from such order."

1963 - P. L. Ch. 65 amended Sec. 88B of Ch. 30, R. S. 1954, as enacted by Sec. 5 of Ch. 466, 1955 P. L. by establishing definitions of certain words used in the Construction Safety Rules and Regulations.

## OCCUPATIONAL SAFETY AND HEALTH ACT

A new development in on-the-job safety and health occurred when Congress enacted the Occupational Safety and Health Act of 1970 on December 29, 1970. This Act preempted the safety and health fields but made provisions for the states to assume responsibility for development and enforcement of occupational safety and health standards provided they were "at least as effective in providing safe and healthful employment and places of employment as the standards promulgated under" the Federal Act. To accomplish this, a Maine plan was developed under a Federally financed contract and submitted to the U. S. Department of Labor late in 1972. In addition, new legislation was required and bills were submitted to the 106th Maine Legislature in the regular session in 1973 and the special session in 1974. The first bill was withdrawn before it could be considered and the second was referred to the 107th Legislature which will convene in 1975.

In the meantime, the present Maine safety statutes are inoperative and the Bureau of Labor and Industry has entered into a contract with the U. S. Department of Labor under which the Federal standards are enforced by Bureau personnel following training by the U. S. Department of Labor. This arrangement is expected to continue until a final decision is made by the Maine Legislature and the U. S. Department of Labor as to whether Maine will resume responsibility for the safety and health of Maine workers.



## MAINE STATE SAFETY CONFERENCE

The Maine State Safety Conference is a self-supporting annual event conducted under the auspices of the Bureau of Labor and Industry and through its Industrial Safety Division. The Conference provides an educational program and brings to it the many segments of Maine industry, interested in and affected by, good safety programs. These include representatives of industry, labor, insurance companies, accident prevention associations, governmental agencies, medical profession and manufacturers and distributors of accident prevention supplies and equipment.

Maine's first annual Safety Conference was a one-day session. It was held on November 15, 1928, in the House of Representatives, State House, Augusta. In addition to the State Department of Labor and Industry, it was supported by the Maine Associated Industries; Maine Automobile Association and both the Pulp and Paper Section of the National Safety Council and the American Society of Safety Engineers, Engineering Section, National Safety Council.

As future conferences were held, interest expanded and in 1935, the Safety Conference was enlarged to a two-day affair. Participation was broadened as the program grew. Today, attendance runs between 600 and 700 people. Several general sessions of broad interest are interspersed with panel discussions covering the range of industries represented in the State. It is felt that the Maine State Safety Conference occupies a permanent place in Maine's program for overall promotion of safety and that it makes a substantial contribution to attempts to reduce industrial accidents, both as to frequency and severity.

## LABOR LAWS AFFECTING WOMEN

While the statutes refer to "Labor of Women and Children" as one subject matter, we have separated them for purposes of clarification so as to more clearly develop the statutory changes affecting each category.

Laws relating to women stemmed from the belief that woman's first and greatest contribution to society was as homemaker. In order to leave her sufficient time and energy to maintain her home and care for her family, limitations on hours of work were set.

The development of the statutes regulating the labor of women is outlined below, beginning in 1887 when protective legislation for women first appeared.

### Hours Limitation

1887 - P. L. Ch. 139, Sec. 1 -- This section stated that "no woman shall be employed in laboring in any manufacturing or mechanical establishment in this state, more than ten hours in any one day . . . and in no case shall the hours of labor exceed sixty in a week . . . provided, however, any female of eighteen years of age or over, may lawfully contract for such labor for any number of hours in excess of ten hours per day, not exceeding six hours in any one week or sixty hours in any one year, receiving additional compensation therefor . . . but during her minority, the consent of her parents, or one of them, or guardian, shall be first obtained."

Posting  
Notices

Sec. 2 of the above Act provided for the posting of proper notices stating the number of hours work required and also starting and ending times.

Hours

1909 - P. L. Ch. 70 -- This Act amended Sec. 48, Ch. 40, R. S. 1903, by changing the maximum hours of work in a week from sixty to fifty-eight.

Seats

1911 - P. L. Ch. 26 -- This Act required "proprietors, managers and persons having charge of establishments or places where women or girls are employed to provide chairs, stools or other contrivances for the seating of such employees, for rest when not actively engaged in duties inconsistent with such requirement, and providing penalties for the violation thereof."

Perishable  
Goods

1911 - P. L. Ch. 55, Sec. 1 -- This Act relating to the limitation of hours amended Sec. 48, Ch. 40, R. S. 1903, as Amended, by adding the following: "Nothing in this section shall apply to any manufacturing establishment or business, the materials and products of which are perishable and require immediate labor thereon to prevent decay thereof or damage thereto."

Hours

1915 - P. L. Ch. 350 -- This Act established new limits as to number of hours worked. " . . . no female shall be employed in any workshop, factory, manufacturing or mechanical establishment or laundry more than nine hours in any one day except when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week and in no case shall the hours of labor exceed fifty-four in a week." The fifty-four hour limit was extended to include "any telephone exchange employing more than three operators or in any mercantile establishment,

store, restaurant, telegraph office or by any express or transportation company in the State of Maine . . . "

Rest  
Period

This Act also established a rest period. It provided that no female, except for emergencies, shall work 'more than six hours continuously at one time in any establishment or occupation named in sections one and three of this Act in which three or more such females are employed without an interval of at least one hour. . ."

Posting  
Notices

The posting of notices was spelled out in detail.

Time Books

It was required that a time book be kept stating the number of hours worked in the establishments named in the Act.

Action

By petition, this Act was submitted by referendum to the voters at the regular election on September 11, 1916. It was referred to as the "54-hour law". Over 13,000 signatures were secured and the result of the vote was as follows:

Total vote	135,843
For	95,591
Against	40,252

It was proclaimed as law by Governor Oakley C. Curtis on September 28, 1916 to take effect 30 days later.

Rest  
Period

1929 - P. L. Ch. 179, Sec. 1 -- This Act amended P. L. 1915, Ch. 350 , Sec. 4, that limited the work by women to six consecutive hours without a rest period of at least one hour by adding the following: "but this shall not apply to any telephone exchange where the operator during the night is not required to operate at the switchboard continuously but is able to sleep the major part of the night."

Posting  
Notices

1929 - P. L. Ch. 179, Sec. 2 -- Amended P. L. 1915, Ch. 150, Sec. 5, which required the posting of notices regarding hours of work by adding the following exemption: "except in any telephone exchange employing less than five female operators."

Hours  
Executive  
Exemptions

1941 - P. L. Ch. 294 -- This Act amended Sec. 23, Ch. 54, R. S. 1930, as Amended, limiting hours of work to fifty-four in any one week in certain industries, by exempting executives, professionals and assistants to executives, etc., as follows: "The provision of this section and of sections 21, 24 and 25 shall not apply to females working in an executive, administrative, professional or supervisory capacity, or to females employed as personal office assistants to any person working in an executive, administrative, professional or supervisory capacity, and who receive remuneration on an annual salary basis of not less than \$1200."

Rest Periods  
Shift Pattern

1941 - P. L. Ch. 324 -- This Chapter amended Sec. 24, Ch. 54, R. S. 1930, as Amended. It recognized a shift pattern by adding the following: "Females employed in any workshop, factory, manufacturing or mechanical establishment on a shift period of more than 6½ hours shall be given no less than a consecutive 30-minute rest period on each shift at such a time, so that the employee does not work more than 6½ consecutive hours on any one shift without such a rest period."

Hours  
Emergency  
Exemption

1943 - P. L. Ch. 285 -- Amended Sec. 21, Ch. 54, R. S. 1930, as Amended, by adding an exemption to the nine-hour per day limitation in cases of emergency, thereby reflecting the demand war placed on production. It stated "provided however that, during the emergency

of war and ending on the declaration of peace, such employee may be employed not in excess of 10 hours in any 1 day, or on agreement between an employer and such employee or her authorized representative, reported to the commissioner of labor and industry within 48 hours thereafter, such employee may be employed in excess of 10 hours in any 1 day, subject in any case to the limitation of 54 hours in any 1 week."

The Act also amended Sec. 24 of Ch. 54, R. S. 1930, relating to rest periods as follows: "provided however that, during the emergency of war and ending on the declaration of peace, such rest period may be adjusted or distributed over the work shift by agreement between an employer and an employee or her authorized representative, subject to the approval of such agreement by the commissioner of labor and industry."

Hours:  
Hotels

1945 - P. L. Ch. 278 -- This Act amended Sec. 24 of Ch. 25, R. S. 1944, as Amended, the hours of work section. It added "hotels" to the places of business where a female could not be employed more than fifty-four hours in any one week.

Equal Pay

1949 - P. L. Ch. 262 -- This was a new Act to provide for equal pay for equal work. It revised Ch. 25, R. S. 1944, as Amended, by adding a new section which read as follows: "No employer shall employ any female in any occupation within this state for salary or wage rates less than the salary or wage rates paid by that employer to male employees for equal work. However, nothing in this section shall prohibit a variation in salary or wage rates based upon a difference in seniority, experience, training, skill, ability or difference in duties or services performed, either regularly or

occasionally, or difference in the shift or time of the day worked, or difference in availability for other operation, or other reasonable differentiation except difference in sex."

Hours  
Coverage  
Broadened

1949 - P. L. Ch. 290, Sec. 6 -- This section amended Sec. 22, Ch. 25, R. S. 1944, as Amended, to broaden the coverage of the nine hour per day law for workshop, factory, manufacturing and mechanical establishments to cover "mercantile, beauty parlor, hotel, restaurant, dairy, bakery, laundry, dry cleaning establishment, telegraph office, in any telephone exchange employing more than three operators or by any express or transportation company in the state." It also repealed the relaxation in emergency of war section.

War Emergency  
Exemption  
Repealed

Hours  
Production  
Workers

Sec. 7 repealed Sec. 23, Ch. 25, R. S. 1944, as Amended, the hours of work section and substituted therefor a new provision which limited to 50 hours the maximum number of hours for female production workers in any workshop, factory, manufacturing and mechanical establishments.

Hours  
Broadened  
Coverage

Sec. 8 repealed Sec. 24, Ch. 25, R. S. 1944, as Amended, the 54-hour law, and enacted in its place the following: "No females shall be employed in any mercantile establishment, beauty parlor, hotel, restaurant, dairy, bakery, laundry, dry-cleaning establishment, telegraph office, in any telephone exchange employing more than 3 operators or by any express or transportation company in the state more than 54 hours in any one week." This change resulted in the addition of beauty parlors, dairy, bakery and dry-cleaning establishments to the coverage of the act.

Executive  
Exemption  
Amended

Sec. 9 added two new sections. The first, Sec. 24-A, was a minor revision of Sec. 24, Ch. 25, R. S. 1944, which exempted executives, etc., from the limitation of hours by raising the annual wage requirement from \$1200 to \$1560.

Relaxation  
15 days  
Singly or  
Consecutively

The second, Sec. 24-B, provided a new relaxation of the hours limitations section to allow an orderly means of meeting unforeseen production emergencies. It provided that "Such relaxation shall be by written agreement between an employer and employee or her authorized representative, subject to the approval of such agreement by the commissioner; and provided further, that the relaxation shall be for not more than 15 days, singularly or consecutively, during the calendar year. The commissioner shall not approve such relaxation except on proof of necessity, extraordinary requirements or emergencies."

Emergency  
of War  
Exemption  
Re-enacted

1951 - P. L. Ch. 159 -- This Act re-enacted the previously repealed Sec. 22, Ch. 25, R. S. 1944, as Amended, the relaxation in time of war section. It provided that in time of war a female could work in excess of 10 hours a day but not to exceed 56 hours per week, providing a report was made to the commissioner of labor and industry.

Employee  
&  
Employer  
Equally  
Responsible  
for Violation  
of Hours  
Limitations

1955 - P. L. Ch. 348 -- This Act repealed and replaced, Sec. 30, 31 and 32, Ch. 30, R. S. 1954, as Amended, relating to limitation on hours of work by making the employee equally as responsible as the employer for any violation and further provided that the employer, to be in violation, must know that the employee was employed in some other establishment covered by the law. It also provided



that no female could be employed more than the maximum hours in one or more establishments.

Rest Period  
Amended

1959 - P. L. Ch. 61 -- This Act amended Sec. 36, Ch. 30, R. S. 1954, as Amended, relating to rest periods. It eliminated the phrase "6 hours consecutively" and reduced the requirement for an hour's rest period to 30 consecutive minutes, it provided that "no female shall . . . be employed or permitted to work for more than 6½ hours at any one time . . . without a consecutive 30-minute rest period . . . ." The commissioner was expressly given permission to relax the above requirement when because "of the continuous nature of the processes or of special circumstances . . ." a relaxation was needed.

Hours  
Coverage

1961 - P. L. Ch. 135, Sec. 3 -- This Act and Section amended Sec. 30 and 32, Ch. 30, R. S. 1954, as Amended, relating to the limitation of hours of work, by adding automatic laundries to the listed types of business covered by the act.

Hours  
Coverage

1961 - P. L. Ch. 162 further revised Sec. 30 and 32, Ch. 30, R. S. 1954, as Amended, by including the following: "retail establishments where frozen dairy products are manufactured on the premises."

1965 - P. L. Ch. 150 -- This Chapter amended R. S., Title 26, Sec. 628, by repealing the first two sentences and enacting in place thereof the following:

"No employer shall discriminate between employees in the same establishment on the basis of sex, by paying wages to any employee in any occupation in this State at a rate less than the rate at which he pays any employee of the opposite sex for comparable work

on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials which are paid pursuant to established seniority systems or merit increase systems, or difference in the shift or time of the day worked, which do not discriminate on the basis of sex, are not within this prohibition. No employer may discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of this section."

Following enactment by Congress of Title VII of the Civil Rights Act of 1964, which prohibited discrimination in employment on account of sex, sentiment began to grow that laws which the various states had enacted to protect women in their employment were discriminatory because they applied only to women. On September 25, 1972, the Civil Rights Division of the Department of Justice informed the Department of Manpower Affairs that "continued enforcement of the following Maine laws and regulations appears to us to be violative of Title VII: Title 26, Section 731 . . . which prohibits women from working more than 9 hours in one day; Title 26, Section 733, which prohibits women from working more than 54 hours in one week in various named industries, establishments and occupations; Title 26, Section 734, which prohibits women production workers in factories from working over 50 hours per week. When consulted about this conflict, then Attorney General James S. Erwin replied that he agreed there was a conflict and that Maine law "must give way to that federal statute." He further recommended that the Maine statutes be repealed.

A bill to repeal the so-called women's protective laws was introduced at the regular session of the Legislature in 1973 but it failed

of enactment. Subsequently, in view of this action, Attorney General Jon A. Lund was asked for a formal opinion concerning the conflict and on August 13, 1973 responded that the statutes in question "are all inoperative in the area in which Title VII operates."

Also in 1973, an amendment to the Maine Human Rights Act prohibited discrimination in employment on account of sex, and an informal opinion dated August 31, 1973 by Assistant Attorney General Charles A. Larouche stated that "on the effective date of the (above amendment). . . (Oct. 3, 1973) this Act becomes operative as an implied repeal of 26 M.R.S.A. Sections 731-735."

As a result of these actions, the Bureau ceased enforcement of the statutes in question.

## CHILD LABOR

Reference to child labor dates back many years and was one of the first matters of concern to legislators dealing with labor laws. The first reference that we find is in the year 1847 when an Act (P. L. 1847, Ch. 29) was passed that stated that no child between the ages of twelve and fifteen years should be employed in cotton or woolen mills without having at least three months of formal schooling out of twelve. Children under twelve must have had at least four months schooling out of twelve. A year later a ten hour per day limitation was placed on work performed by children under sixteen years of age. From this beginning there has been continued consideration for the welfare of children who are a part of the working force and a chronological record of this development follows.

1847 - P. L. Ch. 29, Sec. 1, 2, 3, 4 -- This was the original Act relating to children working in cotton and woolen mills as indicated above.

Sec. 1 - "No child under the age of fifteen years, and over twelve years, shall be employed to labor in any cotton or wool manufacturing establishment, unless such child shall have attended some public or private day school . . . at least three months of the twelve months next preceding any and every year in which such child shall be so employed."

Sec. 2 - "No child, under the age of twelve years, shall be employed in any cotton or woolen manufacturing establishment, unless such child shall have attended some public or private day

school . . . at least four months of the twelve months next preceding any and every year in which such child shall be so employed."

Sec. 3 - This section provided that the school teacher furnish a certificate as to school attendance. It provided a fifty dollar fine for each offense levied on the owner, agents, or superintendent of the mill employing the child.

Sec. 4 - "The superintending school committees within this state may enquire into any violation of this act . . . "

1848 - P. L. Ch. 83, Sec. 2 -- This was the original Act relating to maximum hours of work per day for children under sixteen years of age.

Sec. 2 - "No minor under the age of sixteen years shall be employed in any labor for any manufacturing or other corporations for more than ten hours in any one day . . . "

1887 - P. L. Ch. 139 -- This Act related in its entirety to the hours of labor and the employment of women and children in manufacturing and mechanical establishments and was the first major piece of legislation in this particular field. It stated that "no female minor under eighteen years of age, no male minor under sixteen years of age, and no woman shall be employed in laboring in any manufacturing or mechanical establishment in this state, more than ten hours in any one day, . . . and in no case shall the hours of labor exceed sixty in one week." Some exceptions were provided for such as "except when it is necessary to make repairs to prevent the interruption of the ordinary running of the machinery, or

when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week."

The Act provided that employers should post in a conspicuous place a notice stating the number of hours' work required of women and minors on each day of the week with starting and stopping times indicated. If a minor was employed in violation of the statute a fine of not less than twenty-five dollars nor more than fifty dollars was imposed. The same penalty applied to the employment of women in violation of the provisions of the Act. A certificate of age of a minor made by him and by his parent or guardian at the time of his employment, was conclusive evidence of his age. It was provided that "Whoever falsely makes and utters such a certificate with an intention to evade the provisions of this act shall be subject to a fine of one hundred dollars."

No child under twelve years of age could be employed in any manufacturing or mechanical establishment in this state.

No child under fifteen years of age could be employed in any manufacturing or mechanical establishment in this state unless during the previous year he had attended school for at least sixteen weeks. The penalty for violation was one hundred dollars.

The reference to a school attendance of fifteen weeks was dropped at the time of the revision of the Revised Statutes of 1903 as it was felt to be in conflict with the truancy law of 1899, P. L. Ch. 80, Sec. 1 and 8.<sup>(1)</sup>

---

(1) Report of the Commissioner on the Revision of the Statutes of Maine - 1903: Ch. 48, Sec. 38, p 466 - (In the opinion of the Commissioner, the lines printed in italics are inconsistent with the truancy law of 1899, and are thereby repealed. P. L. 1899, Ch. 80, Sec. 1 & 8.)

Certificates of age to be kept on file at the place of work for all minors under sixteen years of age, to be accompanied by the record of school attendance for those under fifteen years of age.

Sec. 9 of this Chapter provided that a deputy commissioner of labor shall be appointed by the governor and that "It shall be the duty of the deputy commissioner of labor to inquire into any violations of this act, and also to assist in the collection of statistics and other information which may be required, for the use of the bureau of industrial and labor statistics." In addition it said "For the purpose of inquiring into any violation of the provisions of this act, and enforcing the penalties thereof, such deputy commissioner and assistants may, at all reasonable times, enter any manufacturing or mechanical establishment and make investigation concerning such violations."

The above legislation appears to be in response to the message of Governor Bodwell to the Sixty-third Legislature. (2)

1907 - P. L. Ch. 4 -- This Act stated that "No person, firm or corporation shall employ or permit any person under fifteen years of age to have the care, custody, management or operation of any elevator, or shall employ a person under eighteen years of age to have the care, custody, management or operation of any elevator running at a speed of over two hundred feet a minute."

1907 - P. L. Ch. 46 -- This revision provided that instead of age twelve "no child under fourteen years of age, shall be employed in any manufacturing or mechanical establishment in the state."

---

(2) 1887, P. L. Governor Bodwell's Address, p 84.

Children over fourteen years of age and under sixteen years of age, applying for employment in any manufacturing or mechanical establishment in this state, or any person applying in his behalf, should produce a certificate of birth.

The following was also added to Sec. 56, Ch. 40, R. S. 1903, as Amended: "Provided, however, the employment of children therein shall be under the supervision of said inspector who shall on complaint investigate the sanitary conditions, hours of labor and other conditions detrimental to children, and if he finds detrimental conditions to exist, he may prohibit the employment of children therein until such conditions are removed."

The inspector referred to is the "inspector of factories, workshops, mines and quarries." This title replaces that of deputy commissioner, previously established, and was changed in 1893, P. L. Ch. 220.

1909 - P. L. Ch. 257 -- This is a further revision of Ch. 40, R. S. 1903, as Amended, and provided that in addition to the prohibition of children under fourteen from working in any manufacturing or mechanical establishment it should also be unlawful to employ them in any "other business establishment, or in any telephone or telegraph office: or in the delivery and transmission of telephone or telegraph messages during the hours that the public schools of the town or city in which he resides are in session."

The provision as to birth certificates, as given in Ch. 40, R. S. 1903, as Amended, was modified as follows. It was provided that "age and schooling certificates shall be issued by the



superintendent of schools of the city or town in which the child resides." Evidence of age shall first be submitted to the superintendent or the person authorized to issue such age and schooling certificates. It was further provided that the attorney general shall prepare and furnish form of certificates.

1909 - P. L. Ch. 70 -- This amendment provided that no female minor under eighteen years of age, no male minor under sixteen years of age, and no woman should work more than fifty-eight hours in any one week, in any mechanical or manufacturing concern.

1911 - P. L. Ch. 55, Sec. 1 -- This amendment provided that Sec. 48 of Ch. 40, R. S. 1903, as Amended, limiting the hours of work to ten hours in any one day, be amended by adding the following: "Nothing in this section shall apply to any manufacturing establishment or business, the materials and products of which are perishable and require immediate labor thereon, to prevent decay thereof or damage thereto."

1915 - P. L. Ch. 327 -- This Act expanded previous ones by providing that "no child under fourteen years of age shall be employed, permitted or suffered to work at any business or service for hire, whatever during the hours that the public schools of the town or city in which he resides are in session."

It was further provided that "no minor between the ages of fourteen and sixteen shall be employed" without "a work permit issued to said child by the superintendent of schools of the city or town in which the child resides, or by some person authorized by him in writing." Provision was also made for vacation permits

and all of these blank permits should be formulated by the Commissioner of Labor and furnished by him to those issuing such permits. It required that such forms have the approval of the Attorney General.

Penalties were established for violation of this Act.

1915 - P. L. Ch. 350 -- This Chapter is entitled "An Act Relative to the Hours of Employment of Women and Minors." It stated that "no male minor under sixteen years of age and no female shall be employed in any workshop, factory, manufacturing or mechanical establishment or laundry more than nine hours in any one day . . . and in no case shall the hours of labor exceed fifty-four in a week."

No minor under sixteen could be employed in any of the establishments or occupations named in the Act "before the hour of six-thirty o'clock in the morning or after the hour of six o'clock in the evening of any one day."<sup>(3)</sup>

"No male minor under sixteen years of age and no female shall be employed in any telephone exchange employing more than three operators, or in any mercantile establishment, store, restaurant, telegraph office or by an express or transportation company in the State of Maine more than fifty-four hours in any one week."

Employers were required to post a public notice of the time women and minors were required to work.

---

(3) This provision was repealed in 1949, P. L. Ch. 290, Sec. 7. Subsequently, namely, 1959, P. L. Ch. 273, Sec. 1. Nightwork prohibitions were added.

Provision was made that a time book or record should be kept for every female and every male minor under sixteen years of age employed in the occupations named in the Act.

It should be noted that the above legislation was known as the "54-hour law" and was duly passed by the legislature with little difficulty. Shortly after passage and before it became effective a referendum was instituted and having received the required number of signatures it went to vote on the regular election day, September 11, 1916. The question was voted on favorably and was proclaimed as law by Governor Curtis on September 28, 1916, to take effect 30 days later.

1919 - P. L. Ch. 190 -- This Act related to the employment of children of school age. It raised from fourteen to fifteen the age under which no child "shall be employed . . . at any business or service for hire, whatever, during the hours that the public schools of the town or city in which he resides are in session."

The law relating to the issuance of work permits to children under fourteen years of age was amended by modifying the section relating to the demonstration of educational fitness.

1919 - P. L. Ch. 191 -- Bowling alleys and pool rooms were added to the establishments where a minor under sixteen could not be employed before six-thirty o'clock in the morning and after six o'clock in the evening.

1923 - P. L. Ch. 198 -- This Act amended Ch. 350 of the P. L. of 1915 so that "no minor under sixteen years of age shall be employed in any of the said establishments or occupations more than eight hours in any one day."

1927 - P. L. Ch. 137, Sec. 2 -- This section amended R. S. 1916, Ch. 49, Sec. 21, as Amended, which relates to work permits for the employment of minors between fourteen and sixteen years of age. It provided that a work permit may be issued to a subnormal child between ages of fourteen and sixteen who is unable to pass educational tests by adding the following: "A child between the ages of fourteen and sixteen who, because of subnormal mental capacity, is unable to successfully pass the tests necessary to allow a regular work permit to be issued, may under conditions deemed proper receive a work permit issued jointly by the commissioner of education and the commissioner of labor, such persons to be employed in non-hazardous occupations."(4)

1927 - P. L. Ch. 171 -- This Act amended Sec. 20, Ch. 49, R. S. 1916, as Amended, as follows:

Children under fourteen years of age not to be employed in bowling alleys and pool rooms, nor under sixteen as an usher or attendant in any theater or moving picture house.

Children must have completed eighth grade studies before being given a work permit.

This Act also amended Sec. 33, Ch. 49, R. S. 1916, as Amended, by adding the following: "or shall employ any minor under sixteen years of age to have the care, custody, management or operation of any elevator in any hotel, lodging house or apartment house."

---

(4) Ninth Biennial Report of Commissioner Beal of the Department of Labor and Industry - "This amendment was enacted to take care of the few cases which present themselves each year, which involve minors who are physically fit to perform manual labor but find it impossible to derive any benefit from school attendance."

- 1945 - P. L. Ch. 277 -- This Act raised the age from fourteen to fifteen for a child to be employed in any manufacturing or mechanical establishment, bowling alley or pool room. It included laundries and bakeries, for the first time.
- 1945 - P. L. Ch. 309 -- This Chapter entitled "An Act Relating to Dangerous Occupations for Minors", amended Sec. 17, Ch. 25, R. S. 1944, as Amended, by adding the following sentence: "No minor under eighteen years of age shall be employed in, about or in connection with any manufacturing or mechanical establishment, laundry or bakery, in any capacity that the commissioner determines to be hazardous, dangerous to their lives or limbs, injurious to morals, or where their health will be injured."
- 1945 - P. L. Ch. 278 -- The effect of this amendment was to include "hotels" in the list of places where hours of work were limited to fifty-four in any one week for male minors under sixteen years of age and all females.
- 1947 - P. L. Ch. 23 -- This Chapter amended Sec. 17, Ch. 25, R. S. 1944, as Amended, by adding the following: "The provisions of this section shall not apply to minors in public and approved private schools wherein mechanical equipment is installed and operated primarily for purposes of instruction." The effect of this amendment was to modify the "hazardous occupation" amendment passed in 1945 and added to Sec. 17, Ch. 25, R. S. 1944, as Amended.
- 1949 - P. L. Ch. 290 -- This Act added dry cleaning establishments to Sec. 17, Ch. 25, R. S. 1944, as Amended.

It also amended the minimum age laws by repealing the former

and adding a new section. It broadened the coverage and raised the minimum age. It also added three new sections to Ch. 25, R. S. 1944, as Amended, as follows:

Sec. 17-A - "No minor under 16 years of age shall be employed, permitted or suffered to work in, about or in connection with any manufacturing or mechanical establishment, hotel, rooming house, laundry, dry cleaning establishment, bakery, bowling alley, pool room, commercial places of amusement, including traveling shows and circuses, in any theatre or moving picture house as usher or attendant, nor in or about a projection booth."

Sec. 17-B - Minors under sixteen not to be employed more than eight hours a day, 48 hours or six days a week, exception:

"No minor under 16 years of age shall be employed, permitted or suffered to work in, about or in connection with any gainful occupation for more than 8 hours in any 1 day, or for more than 48 hours in any one week, or for more than 6 consecutive days in any 1 week."

"No minor under 16 years of age, enrolled in school, shall be employed, permitted or suffered to work in, about or in connection with any gainful occupation for more than 4 hours on a school day, or for more than 28 hours in any 1 week, or for more than 6 consecutive days in any 1 week where the school is in session, except as hereinafter provided."

"Work performed in agriculture or any occupation that does not offer continuous, year-round employment shall be exempt from the provisions of this section, provided a minor under 16 years of age

has been excused by the local superintendent of schools in accordance with the policy established by the commissioner of education and the commissioner of labor and industry."

Sec. 17-C - Employment of minors under 15 years of age prohibited; exceptions: "No child under 15 years of age shall be employed, permitted or suffered to work in, about or in connection with any eating place, sporting or overnight camp, or mercantile establishment. Except as otherwise provided, no child under 15 years of age shall be employed, permitted or suffered to work at any business or service for hire, whatever, during the hours that the public schools of the town or city in which he resides are in session. The provisions of this section shall not apply to any such child who is employed directly by, with or under the supervision of either or both of its parents."

The Act refined various sections to be consistent with the above additions. It also provided the following exception to the work permit requirement to become a part of Sec. 18, Ch. 25, R. S. 1944, as Amended, - "The provisions of this section shall not apply to minors engaged in work permitted in agriculture, household work or any occupation that does not offer continuous year-round employment."

This Act repealed the provision that 'no minor under sixteen could be employed . . . before the hour of six-thirty o'clock in the morning and after the hour of six o'clock in the evening' as indicated above.

1955 - P. L. Ch. 335, Sec. 1 -- This Act amended Sec. 23, Ch. 30, R. S. 1954, as Amended. The basic change was to change the application of the statute in question from "usher or attendant nor in or about a projection booth" to all employees.

It also said "The provisions of this section pertaining to theaters shall not apply to minors under 16 years of age who are employed or in training as theatrical actors."

1959 - P. L. Ch. 273, Sec. 1 -- This Act amends Sec. 24, Ch. 30, R. S. 1954, as Amended, relating to age limits, by adding the following new paragraph: "No minor under 16 years of age shall be employed between the hours of 9 p.m. and 7 a.m."

Sec. 2 amends Sec. 25, Ch. 30, R. S. 1954, as Amended, by changing the age of 15 to 14 for employment in "any eating place, sporting or overnight camp or mercantile establishment" and adding the following: "and no child between the ages of 14 and 16 years shall be so employed when the distance between the work place and the home of the child, or any other factor, necessitates the child's remaining away from home overnight."

Sec. 3 amends R. S. 1954, as Amended, by adding a new section to be numbered 26-A, to read as follows:

"Section 26-A. Part-time work permits. Part-time work permits may be issued by the local superintendent of schools, or by some person authorized by him in writing, to minors under 16 years of age who have not completed the studies covered in the grades of the elementary school or their equivalent. In municipalities employing a guidance counsellor, the superintendent may require a



recommendation from such guidance counsellor. Such part-time work permits shall entitle their holders to work in the employment stated thereon during hours when school is not in session and shall be issued only for work permissible for minors under 16 years of age under sections 22 to 25."

1961 - P. L. Ch. 135, Sec. 1 -- Amended Sec. 23, Ch. 30, R. S. 1954, as Amended, to exempt automatic laundries from the occupations where a 16 year minimum age applied. It did, however, establish a minimum age of 14 for work in such establishments.

1961 - P. L. Ch. 162, Sec. 1 -- Amended Sec. 23, Ch. 30, R. S. 1954, as Amended, by adding the following sentence: "The provisions of this section pertaining to manufacturing establishments shall not apply to minors under 16 years of age who are employed in retail establishments where any frozen dairy product or frozen dairy product mix or related food product is manufactured on the premises, regardless of trade name or brand or coined name."

This Act, by including "retail establishment where frozen dairy products are manufactured on the premises" to Sec. 25, Ch. 30, R. S. 1954, as Amended, which placed a limitation of age to 14 years to employment of children in certain industries, resulted in the establishment of a similar minimum age for this occupation.

1965 - Ch. 272, Sec. 3 -- Amended R. S., Title 26, Sec. 775, by changing the fifth sentence of the third paragraph of Sec. 775 to read "a child between the ages of 15 and 17 years . . ."

## MINIMUM WAGES

Maine's first entrance into the minimum wage field was one applicable to a single industry, namely, fish packing, and it is noted below together with an account of Wage Board action and subsequent court action.

Minimum  
Wage

Fish  
Packing

1939 - P. L. Ch. 289 -- This, Maine's first minimum wage law, was limited to women and minors packing fish and fish products. The legislature found that "The industry or business of packing of fish and fish products . . . constitute an industry . . . of a special seasonal and unusual nature, in which women and minors predominately are employed . . . , therefore it is found by the legislature that public health, safety and welfare require the protection of the industry or business and the regulation of the employment of women and minors therein."

Sec. 3 - "By reason of the findings set forth in section 1 of this act, it is hereby declared unlawful . . . for any employer to employ any woman or minor . . . at an oppressive or unreasonable wage or at less than a fair wage . . . "

Sec. 4 - The commissioner of labor and industry and state factory inspector was given full power to investigate and to establish wage boards and was given responsibility for administration.

Sec. 5 - It was also provided that on petition of 50 or more residents of the state, the commissioner should investigate wages being paid. If the commissioner determined, as a result of the

investigation, that "a substantial number of women or minors . . . are receiving oppressive and unreasonable wages, or less than a fair wage, a wage board shall be appointed to report upon such protection as is necessary for the industry and for the establishment of minimum fair-wage rates for such women or minors employed therein."

Sec. 6 - Provisions as to the membership, powers and duties of the wage board were detailed.

Sec. 9 - Wage boards report. "Within 60 days after the appointment of a wage board, it shall hold a public hearing and submit a report of its findings as to the conditions in the industry and as to minimum fair-wage standards for the women and minors employed in the industry, business or occupation described in section 1 hereof. A wage board may differentiate and classify employment and occupation in such industry or business according to the nature of the service rendered and may determine appropriate minimum fair-wage rates for each type of employment or occupation. A wage board also may determine fair-wage rates varying with localities . . . A wage board further may determine a suitable scale of minimum fair-wage rates for learners and apprentices . . . "

Sec. 10 - "Further proceedings. The report, findings and determinations of a wage board shall be filed with the commissioner, who, within 10 days, shall cause a copy thereof, certified to him to be a true copy, to be served on each employer in the state . . .

"Within 5 days after the commissioner has made such service, he shall file in his office as a public record, a certificate

containing the report, findings and determinations of the wage board and a certificate of service, and thereupon the minimum fair-wage rates set forth and determined in the report of the wage board shall become the effective minimum fair-wage rates to be paid to women and minors . . . And thereafter no employer in such industry or business shall pay to any woman or minor employed by him less than said minimum fair-wage rates . . . "

Sec. 11 - "Compliance by employers. If the commissioner has reason to believe that any employer is not paying the minimum fair-wage rates found and determined by a wage board, and certified and made effective . . . he may, on 15 days notice, summon any such employer to appear before him to show cause why the name of any such employer should not be published as having failed to observe the provisions of such report, findings and determinations." If found guilty, "the commissioner shall cause to be published in not less than 3 daily and 3 weekly newspapers . . . the name or names of any such employer or employers . . . "

Sec. 12 - "Court proceedings. If at any time after a report of a wage board . . . has been filed with the commissioner, . . . and any employer or employers affected thereby, have failed for a period of two months to pay such minimum fair-wage rates, the commissioner shall thereupon take court action to enforce such minimum fair-wage rates. The commissioner shall file in the office of the clerk of the superior court for Kennebec County the record of hearings before the wage board, . . . A justice of the superior court, . . . shall render, within 30 days after the filing of the

papers with the said clerk . . . his decision affirming or disaffirming the minimum fair-wage rates stated in the report . . . but he shall not disaffirm such minimum fair-wage rates unless he shall find from the record, . . . that the same were fixed and determined by the wage board without any substantial evidence in justification thereof. Appeal may be had from the decision of the superior court only on questions of law."

Sec. 13 - "Employers records. Every employer . . . shall keep true and accurate record of the hours worked . . . and of the wages paid . . . and shall furnish to the commissioner, upon demand by him, a sworn statement of the same; such records shall be open to inspection by the commissioner at any reasonable time."

Subsequent to the law's adoption, Commissioner Jesse Taylor appointed the following members to a wage board: as representatives of employers - M. B. Pike, Holmes Packing Corp., Eastport; Calvin Stinson, Stinson Canning Co., Prospect Harbor; R. B. Stevens, Royal River Packing Co., Yarmouth; as representatives of employees - Mrs. Clara Giroux, R. J. Peacock Co., Lubec; Mrs. Wilhelmina Pettie, Ramsdell Packing Co., Rockland; Mrs. May Barker, Seaboard Packing Co., South Portland.

Appointed to the board by the Hon. Charles P. Barnes, Chief Justice of the Supreme Court to represent the public were F. Ardine Richardson, Strong; Miss Helen N. Hanson, Calais; and Frank B. Day, Durham.

"On January 29, 1940, the Wage Board was appointed and within sixty days thereafter, to-wit, on March 14, 1940, it conducted a

Action  
Taken

hearing for the purpose of determining the facts relating to conditions in the industry and to fix minimum fair wage standards for the women and minors employed in the industry."<sup>(1)</sup>

**Board's  
Determinations**

"The hearing of March 14, 1940, was adjourned to March 23, 1940, at which time the Wage Board reconvened and continued its inquiry into conditions in the industry. Following the hearings the Board determined the minimum fair wage rates to apply to the industry with respect to certain types of employment or occupations making such determinations in the form of a report. On the twenty-sixth day of April, 1940, the Commissioner of Labor filed in the office of the Clerk of the Superior Court of Kennebec County the record of the hearings before the Wage Board together with its report, findings and determinations."

Wage rates as determined by the Wage Board following the hearings as conducted at the State House, Augusta were as follows:

22¢ per 100 can case for packing sardines in one-quarter cans

When machines are used in the cutting process a reduction of 3¢ for cutting and/or 2¢ for filling from the established 22¢ piece rate

15¢ per 48 cans for packing sardines in three-quarter cans

When machines are used in the cutting process a reduction of 2¢ for the cutting and/or 2¢ for the filling from the established 15¢ piece rate

The Board established "a minimum fair-wage rate for the carton-ing of one-quarter cans 7 cents per case of 100 cans, and for the

---

(1) Stinson, Calvin L. On appeal in Re Wage Board, Brief for Wage Board

cartoning of three-quarter cans 5 cents per case of 48 cans."

A minimum fair-wage rate of not less than 33 cents per hour was established, which proved that, if paid on the basis of piece work, the minimum fair-wage rate paid must equal 33 cents per hour.

Commissioner Taylor immediately set about to enforce these rates and brought action against Calvin Stinson for failure to pay such rates. The Superior Court ordered Mr. Stinson to comply which order was appealed to the Law Court by Mr. Stinson.

Stinson vs Taylor 137 Me. 332. Decided January 28, 1941.

Appeal to  
Law Court

This is an appeal from the decision of a justice of the Superior Court in an action brought by the Commissioner of Labor and Industry to enforce the minimum fair-wage rates established for women and minors employed in the Fish-Packing Industry of Maine. The action was filed under the provisions of Ch. 289, P. L. 1939. Authority for the action was contained in Sec. 12 of that law.

Decision

The court stated that "The language of the legislature in enacting Section 12 of this wage act, as it may be termed, is clear and unambiguous. The failure of an employer in the fish-packing industry for two months to pay the minimum fair-wage rates reported by a wage board is expressly made a condition precedent to court action to enforce the rates. This provision is, in terms, mandatory and compliance with it seems necessary in order to confer jurisdiction upon the tribunal to which the action may be presented.

A Justice of the Superior Court, in enforcing minimum fair-wage rates under the wage act, exercises a special and limited jurisdiction which is purely statutory and not according to the common law. It is well settled that in such cases, unless there is strict compliance with conditions precedent prescribed by the statute, the court is without jurisdiction and the proceeding is a nullity.

'In the case of bar, the record does not show that an employer in the industry of packing of fish and fish products affected by the minimum fair-wage rates reported by the wage board failed for a period of two months, or even at all, to pay such wages after service of the report as required by law. The record does show, as already stated, that, within less than one month after the report was filed and had been served, action to enforce the rates was taken. It is the opinion of this court that the justice of the Superior Court taking cognizance of this action was without jurisdiction and any and all proceedings connected therewith are a nullity.'

Following the above decision of January 28, 1941, the Commissioner of Labor and Industry brought another action on March 4, 1941, to enforce the wage rates as 'established by the Wage Board acting for the establishment of wages in the Industry of Packing of Fish and Fish Products.'

The Justice of the Superior Court decided in favor of the Commissioner. The defendant appealed. The Supreme Court held, *Stinson vs Taylor* 139 Me. 97, that because the Commissioner failed



to follow the procedure provided by statute as a condition precedent to the maintenance of such action the Justice of the Superior Court was without jurisdiction. 'Appeal was sustained and the case remanded for dismissal for want of jurisdiction.'

In this the decision rested on the fact that 'neither the record of hearing before the Wage Board nor the certificate of service on employers by the Commissioner of Labor and Industry have been filed, 'as provided under Sec. 12 of Ch. 289, P. L. 1939 and without such filing, the Superior Court was without jurisdiction.

The State of Maine first enacted a general minimum wage law at the legislative session of 1959. This action followed many expressions of opinion as to the need for this legislation. The Department of Labor and Industry in its biennial reports of 1954 to 1956 and 1956 to 1958(2) pointed out the lack of protection provided the Maine worker. Without a minimum wage law it was indicated that the worker was subject to exploitation and the employer who paid fair wages had to meet competition from employers who refused to meet the standards that he maintained.

1959 - P. L. Ch. 362, established a minimum wage for the State of \$1.00 per hour. Certain employees were exempted from the provisions of the act such as those employed in agriculture, in domestic service, as a service employee who received 51% of his wages in tips; those engaged in the activities of a public-supported non-profit organization or employed by nursing homes or

---

(2) Biennial Reports, Department of Labor and Industry 1954-56; 1956-58.

private hospitals. Additional exemptions covered employees of any business who are enrolled in school or are on vacation; in commercial fishing and telephone operators in an exchange of less than 750 employees and industrial homeworkers. The statute also exempted any individual employed in a business or service establishment which has 3 or less employees at any one location. Workers handicapped by age or otherwise could be employed at less than the minimum wage provided the Commissioner of Labor and Industry issued a special certificate authorizing such employment. Learners or apprentices working under an approved apprentice training program might be employed at less than the statutory minimum provided the Commissioner issued a certificate setting forth the wages and time. The Commissioner or a duly authorized representative has authority to enter businesses to examine books and records only after receipt of a written complaint alleging a violation of the Minimum Wage Law.

1961 - P. L. Ch. 277 - This Act revised some of the provisions of the original statute. A new section was added covering employers employing 4 or more employees in any day of the week regardless of where employed rather than those employing 4 in one location, and in that count were included "waiters, waitresses, doormen, bellhops, and chambermaids; students; and members of the family of the employer who had previously not been counted in determining coverage."

It was specifically provided that counter waiters or waitresses would not be exempt from the Minimum Wage Law.

The student exemption was amended to exempt only students under the age of 19.

Another change required employers to keep a true and accurate record of hours and wages paid and gave the department authority to inspect these records at any time, whereas formerly it could do so only on written complaint.

1965 - P. L. Ch. 176 -- This Act repealed Sec. 491 to 555 of Title 26 of the Revised Statutes being the Fish Packing Wage Board Law.

1965 - P. L. Ch. 399 -- This Chapter amended Sec. 663 of Title 26 of the Revised Statutes by adding a new subsection 7, to read as follows:

Subsec. 7 - "Minimum wage for firemen. Members of municipal fire fighting departments, other than volunteer or call-departments, who are paid salaries or regular wages, are deemed to be employees within the meaning of this section and are covered by this subchapter. However  $1\frac{1}{2}$  times the hourly rate shall not be paid for all work done over 48 hours under this subsection."

The chapter further established an effective date for this Act as May 1, 1966.

1965 - P. L. Ch. 410 -- This Chapter amended several sections of the minimum wage law. The commercial fisheries exemption was broadened as was the section relating to the employment of individuals under the age of 19.

The minimum wage rate was increased from \$1.00 to \$1.15 per hour beginning October 15, 1965, increasing to \$1.25 a year later. Payment for time worked in excess of 48 hours was fixed at  $1\frac{1}{2}$  times the hourly rate. Employees of nursing homes and hospitals

were included in the Act for the first time. The rate for this newly covered group was set at \$1.00 per hour, increasing to \$1.15 and to \$1.25 at yearly intervals. Overtime provisions shall not apply to these newly covered occupations nor to certain perishable foods.

1967 - P. L. Ch. 333 -- This Chapter amended Sec. 664 of Title 26 of the Revised Statutes, as amended by Sec. 5 of Ch. 410 of the Public Laws of 1965. The minimum wage rate was raised from \$1.15 per hour to \$1.40 per hour for one year starting October 15, 1967 and thereafter \$1.50 per hour. On October 15, 1967 to October 15, 1968, the rate for employees in a nursing home or employees in a hospital became \$1.25 per hour instead of \$1.00. From October 15, 1968 to October 15, 1969, they were to be paid at a rate of no less than \$1.40 per hour and thereafter at a rate no less than \$1.50 per hour. It was further provided that the overtime provisions of this section shall not apply "to hotels, motels, restaurants and other eating establishments."

1967 - P. L. Ch. 385 -- This Chapter amended Subsection 7 of Sec. 663 of Title 26 of the Revised Statutes, as enacted by Sec. 1 of Ch. 399 of the Public Laws of 1965. It added after the first sentence the following: "Firemen's wages may be paid by the municipality based upon the average number of hours worked during any one work cycle which is not to exceed 12 weeks in duration."

1967 - P. L. Ch. 466 -- This Chapter amends the minimum wage law in several places and the changes are basically for clarification. Waiters and waitresses were removed from the exemptions. The

definition of a "service employee" was clarified and it was also determined that not more than 50% of the applicable minimum wage rate shall be deemed as coming from tips in determining if an employee is being paid the minimum wage.

1969 - Ch. 184 -- This Chapter exempted seamen from the payment of overtime wages.

1969 - Ch. 356 -- This Chapter established the minimum hourly wage "rate of not less than \$1.60 per hour with overtime at  $1\frac{1}{2}$  times the hourly rate for hours worked in excess of 48 hours in any one week. The rate for nursing homes and hospitals was set at \$1.50 per hour between October 15, 1969 and October 15, 1970, after which date the rate was increased to \$1.60 per hour.

1971 - Ch. 78 amended Title 26, Sec. 664 by requiring  $1\frac{1}{2}$  times the regular hourly rate after 40 hours instead of 48 hours.

1971 - Ch. 415 amended Title 26, Sec. 664 by increasing the minimum wage from \$1.60 an hour to \$1.80 generally and increased nursing homes and hospitals from \$1.50 to \$1.60 an hour and another step a year later to \$1.80. This chapter also added a provision that "whenever the highest federal minimum wage is increased in excess of \$1.80 per hour, the minimum wage established under this section shall be increased to the same amount . . . but in no case shall the minimum wage exceed \$2 per hour."

1971 - Ch. 525 amended Title 26, Sec. 662 by removing the differential between those employing 4 employees or more and those with fewer than 4, to become fully effective October 15, 1973.

- 1973 - Ch. 420 amended Title 26, Sec. 664 by increasing the maximum rate to which the Maine law would follow the federal -- from \$2 to \$3 per hour.
- 1973 - Ch. 467 amended Title 26, Sec. 664 by increasing the minimum wage generally from \$1.80 to \$1.90 an hour, making the Maine minimum wage one of the highest in the United States. It further provided an additional step for hospitals and nursing homes to \$1.90 per hour effective October 15, 1974.
- 1973 - Ch. 504 amended Title 26, Sec. 663, by adding a definition of "hotel" for purposes of the exemption from the payment of overtime.
- 1974 - Ch. 752 amended Title 26, Sec. 664 to increase the minimum wage from \$1.90 to \$2 per hour effective October 15, 1974, and an increase for hospitals and nursing homes to \$2 effective on October 15, 1975.

On May 1, 1974, the "highest federal minimum wage" increased to \$2 an hour, which automatically increased the Maine rate to the same amount on the same date. Further increases were scheduled by that amendment to the Federal Fair Labor Standards Act which also applied to Maine: \$2.10 an hour on January 1, 1975, and \$2.30 on January 1, 1976. The exception is for nursing homes and hospitals which under the Maine law are subject to a lower rate as indicated above.

## WEEKLY PAYMENT OF WAGES

A considerable amount of time is spent by the Department of Labor and Industry in handling complaints from citizens who state their inability to collect wages that are due and owing to them by employers. The law provides that "Any employee, leaving his or her employment, shall be paid in full within a reasonable time after demand at the office of the employer where payrolls are kept and wages are paid."

The evolution of our present law took place as follows:

Weekly Payment of Wages Provided For	1911 - P. L. Ch. 39 -- This is the original act and it provided that "Every manufacturing, mining or quarrying, mercantile, street railway, telegraph or telephone corporation, every incorporated express company or water company, and every contractor, person or partnership engaged in any manufacturing business, in any of the building trades, in quarries or mines, upon public works or in the construction or repair of street railways, roads, bridges or sewers or of gas, water or electric light works, pipes or lines, shall pay weekly each employee engaged in his or its business the wages earned by him to within eight days of the date of said payment, but any employee leaving his or her employment shall be paid in full on the following regular pay day, provided, that when an employee is discharged, he shall be paid the wages due him on demand." Similar provisions were made to include employees of the state, counties and cities or towns. "The provisions of this section shall not apply to any employee engaged in cutting and hauling logs and lumber, nor the driving of same until it reaches
Payment of Wages on Discharge	
Exemptions	

Penalty for  
Violation  
of this Act

its place of destination for sale or manufacture; nor to an employee of a co-operative corporation or association if he is a stockholder therein unless he requests such corporation to pay him weekly. No corporation, contractor, person or partnership shall by a special contract with an employee or by any other means exempt himself or itself from the provisions of this act. Whoever violates the provisions of this act shall be punished by a fine of not less than ten nor more than fifty dollars."

Amendment

1913 - P. L. Ch. 26 -- This Act amended P. L. 1911, Ch. 39 by adding to the list of covered occupations the following: " . . . and every steam railroad company or corporation."

1915 - P. L. Ch. 296 -- This Act further amended P. L. 1911, Ch. 39, as amended by P. L. 1913, Ch. 26 by "striking out all of said chapter and inserting in place thereof the following, which added mechanical establishments to the businesses covered and rearranged some of the verbiage:

Weekly  
Payment  
Of Wages  
Provided  
For

'Every corporation, person or partnership, engaged in a manufacturing, mechanical, mining, quarrying, mercantile, street railway, telegraph or telephone business; in any of the building trades; upon public works, or in the construction or repair of street railways, roads, bridges, sewers, gas, water or electric light works, pipes or lines; every incorporated express company or water works; and every steam railroad company or corporation shall pay weekly each employee engaged in his or its business the wages earned by him to within eight days of the date of said payment, but any employee, leaving his or her employment, shall be paid in



State,  
County,  
City or Town  
Employees  
Included

full on the following regular pay day, provided, that when an employee is discharged he shall be paid the wages due him on demand; and the State, its officers, boards and commissions shall so pay every mechanic, workman and laborer who is employed by it or them, and every county and city shall so pay every employee who is engaged in its business the wages or salary earned by him, unless such mechanic, workman, laborer or employee requests in writing to be paid in a different manner; and every town shall so pay each employee in its business if so required by him; but an employee who is absent from his regular place of labor at a time fixed for payment shall be paid thereafter on demand. The provisions of this section shall not apply to an employee engaged in cutting and hauling logs and lumber, nor the driving of same until it reaches its place of destination for sale or manufacture; nor to an employee of a cooperative corporation or association if he is a stockholder therein unless he requests such corporation to pay him weekly. No corporation, contractor, person or partnership shall by a special contract with an employee or by any other means exempt himself or itself from the provisions of this act. Whosoever violates the provisions of this act shall be punished by a fine of not less than ten nor more than fifty dollars."

Exemption

Penalty

1916 - R. S. Ch. 49, Sec. 34, P. L. 1911, Ch. 39, as amended by P. L. 1913, Ch. 296 and P.L. 1915, Ch. 296 was incorporated in the Revised Statutes of 1916 and appears as Sec. 34 of Ch. 49.

1930 - There were no changes in the law between the 1916 and 1930 revisions of the statutes when the chapter and section numbers were

changed to Sec. 34, Ch. 49, R. S. 1930.

**Restaurants  
Added** 1935 - P. L. Ch. 111 -- This amendment added "restaurant" to the coverage of the act.

**Keeping of  
Records** 1935 - P. L. Ch. 147 -- This Act amended 1930, R. S. Ch. 54, Sec. 39 in the following manner. First, the title of Sec. 39 was changed to read "Sec. 39. Weekly payment of wages: state, county, city and town employees; exception; penalty." Second, the following sentence was inserted in the same section: "A true record shall be kept showing the date and amount paid to each person engaged in any of the above occupations, the same to be accessible at any reasonable hour to any representative of the department of labor and industry."

**Records** 1937 - P. L. Ch. 193 -- This Act amended 1930, R. S. Ch. 54, Sec. 39 by adding the following: "There shall also be kept a daily record of the time worked by such person, excepting such employees as are paid a fixed weekly salary regardless of the number of hours worked."

1941 - P. L. Ch. 218 -- This Act added hotels, summer camps and beauty parlors to the businesses covered by the weekly payment of wage law. It also changed the time of payment of wages from the "following regular pay-day" to "on demand at the office of the employer where payrolls are kept and wages are paid."

1944 - R. S. Ch. 25, Sec. 38 -- This revision changed the reference of the payment of wages section to Sec. 38, Ch. 25, R. S. 1944.

**Amusements  
Added** 1951 - P. L. Ch. 94 -- This Act added "amusement" to the listed businesses.

1954 - R. S. Ch. 30, Sec. 50 -- This revision changed the reference of the payment of wages statute to Sec. 50, Ch. 30, R. S. 1954.

Records

1955 - P. L. Ch. 278 -- This Act clarified the intent of the record keeping clause by adding after the third sentence of Sec. 50, Ch. 30, R. S. 1954 the following: "Nothing contained in this section shall excuse any employer mentioned in section 38 from keeping the records required by said section 38."

Logging  
Added

1957 - P. L. Ch. 94 -- This Act amended 1954, R. S. Ch. 30, Sec. 50 in the following manner: To the list of businesses covered by the payment in full on cessation of employment section there was added "In logging or lumbering operations" which, prior to this time, were exempted. Clarification of payment of wages on termination of employment was made by adding the phrase "within a reasonable time . . . after demand," etc. There was also added the following new sentence: "Whenever the terms of employment include provisions for paid vacations, vacation pay on cessation of employment shall have the same status as wages earned."

Provision  
for paid  
Vacations

Payment  
Within  
Reasonable  
Time

1961 - P. L. Ch. 95 -- This Act was a revision for clarification of the previous law. The weekly payment section was separated into a separate paragraph, the coverage remaining the same. The payment in full on cessation of employment was made a separate section and covered all employment rather than the list as set forth in the weekly payment section.

1961 - P. L. Ch. 395, Sec. 20 -- This section amended 1954, R. S. Ch. 30, Sec. 50 as Amended by 1957, Ch. 94, Sec. 1, by striking out of the first sentence the words "street railway" and "street railroads"

where they appear.

1961 - P. L. Ch. 417, Sec. 86 -- This Act revised 1954, R. S. Ch. 30, Sec. 50. This did not change the section as to policy or intent but was part of the Revision of Statutes bill to correct errors in the writing of the law.

1973 - P.L. Ch. 40 removed the exemption from weekly payment of wages for "employees engaged in cutting and hauling logs and lumber, nor the driving of the same until it reaches its place of destination for sale or manufacture."

## BOILER LAWS

A recognition of the dangers inherent in the use of steam and steam pressures appears quite early in the legislative records of the state. The first law relating to the use of steam boilers appears in 1850 and the subsequent legislative actions are hereby developed.

1850 - P. L. Ch. 189 -- An Act to prevent the explosion of steam boilers.

Users  
Required to  
Provide  
Fusible Plugs

This legislation provided that steam boilers used in the state should "be provided with a fusible safety plug, to be made of lead, or some other equally fusible material, and to be of a diameter of not less than one-half inch . . ." The penalty for removing a safety plug, or substituting another plug more capable of resisting fire action, was set at "not exceeding one thousand dollars." A similar fine was applicable where a steam boiler was used for a period of six days without a safety fusible plug.

1857 - R. S. Ch. 17, Sec. 17 and 18. This revision brought forward the original act as noted above and relating to the use of fusible plugs in steam boilers.

Illegal to  
Manufacture  
or sell  
Boilers Not  
Equipped With  
Fusible Plugs

1858 - P. L. Chs. 47 -- This Act amended sections 17 and 18 of Ch. 17 of the Revised Statutes of 1857 by inserting the words "manufacture, sell." Sec. 17 then read in part, "No person or corporation shall manufacture, sell, use or cause to be used any steam boiler in this state, unless it is provided with a fusible safety plug. . ." Sec. 18 then read in part, ". . . or if any person or corporation uses or causes to be used, for six consecutive days, or manufactures, or sells a steam boiler unprovided with such safety fusible plug . . ." the penalty would be applicable.

1871 - R. S. Ch. 17, Sec. 21 and 22. This is a revision of 1857, R. S. Ch. 17, Sec. 17 and 18 as amended by 1858, P. L. Ch. 47, Sec. 1 and 2.

1883 - R. S. Ch. 17, Sec. 21 and 22. The Revised Statutes of 1871, Ch. 17, Sec. 21 and 22 appear in the new revision as indicated.

Defined Type  
of  
Fusible Plug  
And Location  
of it

1887 - P. L. Ch. 34 -- This Act amended Sec. 21, Ch. 17 of the Revised Statutes of 1883 by setting standards for fusible safety plugs in that they should be made of lead for boilers carrying steam pressure above fifty pounds per square inch, and of tin for boilers carrying steam pressure of fifty pounds and less per square inch. It also provided exceptions to the provision as follows: "... excepting in cases of upright tubular boilers, when the upper tube sheet is placed above the surface line of the water, which class of boilers shall be exempted from the provisions of this section." This act was approved February 23, 1887. It was immediately repealed by the following act.

Changes in  
Fusible Plug  
Requirements  
Exception

1887 - P. L. Ch. 49 -- This Act repealed Ch. 34, P. L. 1887 and enacted in its place the following: 'Section twenty-one of chapter seventeen of the revised statutes is hereby repealed, and the following is inserted in place thereof:

"Sec. 21. No person or corporation shall manufacture, sell, use, or cause to be used, except as hereinafter provided, any steam boiler in this state unless it is provided with a fusible safety plug, made of lead for boilers carrying steam pressure above fifty pounds per square inch, and of tin for boilers carrying steam pressure of fifty pounds and less per square inch, and

shall be placed . . . , excepting in cases of upright tubular boilers, when the upper tube sheet is placed above the surface line of the water, which class of boilers shall be exempted from the provisions of this section."

1903 - R. S. Ch. 22, Sec. 22 and 23. This is a revision of 1883, R. S. Ch. 17, Sec. 21 and 22 as amended by 1887, P. L. Ch. 49.

Steam  
Plant  
Operators

1907 - P. L. Ch. 82 -- An Act requiring Steam Plants in school buildings, churches, and other public buildings, to be in charge of competent persons.

Sec. 2 of this act stated that "the municipal officers of any town or city . . . shall require the person or persons contemplating taking charge of the steam plant . . . to be first examined by them, and they shall require him to produce before them proof of his competency to have charge of such steam plant . . . and if said municipal officers are satisfied . . . shall issue . . . a certificate in the following form . . . :

Certificate  
Filing  
And Posting

"' Said certificate when issued shall be filed in the office of the city or town clerk . . . and the copy so issued shall be posted . . . in or near the room in which the boiler to be operated is located.'"

Qualifications  
for  
Eligibility

Sec. 3 - "It shall be unlawful for the municipal officers of any city or town to issue the certificate provided for by this act without receiving proof that the person to whom such certificate is issued has had experience in such work, and is in all respects qualified to discharge the duties referred to in the certificate granted, and is also of temperate habits.

Suspension of  
Certificate

Sec. 4 provided for the suspension of the authority to be in charge of steam boilers when incompetency is indicated by receipt of a notice in writing signed by ten or more of the residents.

Penalty

Sec. 5 provided a penalty for violation of this act, it being "a fine not exceeding fifty dollars, or imprisonment for a term not exceeding ninety days, or both, as the court in which such conviction is obtained, shall determine."

1916 - R. S. Ch. 23, Sec. 25 and 26. The Revised Statutes of 1903, Ch. 22, Sec. 22 and 23 are carried forward to this new revision, with no change.

Fusible Plug  
Specifications

1929 - P. L. Ch. 257 -- An Act Relating to Fusible Plugs in Steam Boilers.

This act amended Sec. 25 of Ch. 23, R. S. 1916, in which had been incorporated the laws on the subject which had been adopted prior to this date. The amendment provided the following specifications for the required fusible plug.

"Fusible plugs, if used, shall be filled with tin with a melting point between four hundred and five hundred degrees Fahrenheit, and shall be renewed once each year. The following provision shall not apply to steam boilers carrying a pressure in excess of two hundred and twenty-five pounds per square inch gauge."

The act set limits as to the minimum size of the plug and made provision as to the location of the plug in accordance with the type of boiler in use. These provisions followed the standards established by the 1927 edition of the American Society of Mechanical Engineers boiler code requirements applicable to fusible plugs in boilers.



Exemptions

It further provided the following exemptions "to locomotives or other boilers under the jurisdiction of the United States, nor to boilers which are insured by standard steam boiler insurance companies, and are inspected by such companies at least once a year, nor to railroad corporations engaged in interstate commerce, nor to cast iron boilers carrying less than fifteen pounds of pressure per square inch gauge."

1930 - R. S. Ch. 26, Sec. 28 and 29. This is a revision of 1916, R. S. Ch. 23, Sec. 25 and 26 as amended by 1929, P. L. Ch. 257.

Registration  
of  
High Pressure  
Boilers  
Required

1931 - P. L. Ch. 158 -- An Act Relating to Registration and Use of Steam Boilers and Unfired Steam Pressure Vessels amended Ch. 54, R. S. 1930, in which had been incorporated the laws on the subject which had been adopted prior to this date. The amendment required all boilers carrying over fifteen pounds per square inch to be registered with the State Department of Labor and Industry. It further provided for condemnation proceedings as follows:

Operation of  
Condemned  
Vessels  
Prohibited

"Sec. 50. Condemned vessels shall not be operated; penalty. No steam boiler or unfired steam pressure vessel that has been condemned for further use in this or any other state by an authorized boiler inspector employed by an insurance company or by an inspector authorized to inspect boilers by a state or the federal government shall be operated in this state.

"Whoever operates a boiler in violation of this section shall be punished by a fine of not less than one hundred dollars."

Stamping  
Requirement  
for  
Condemned  
Vessels

"Sec. 51. Condemned vessels to be stamped; penalty. Every steam boiler or unfired steam pressure vessel so condemned in this

state shall be stamped in the following manner. 'XXXME.', and the department of labor and industry shall immediately be notified of such condemnation . . . "

"The laws and regulations of the American Society of Mechanical Engineers boiler code shall be used in all mathematical computations necessary to determine the safety of a boiler."

Operation of  
Non-Registered  
Boilers and  
Unfired Pressure  
Vessels  
Prohibited

"Sec. 52. Registration of certain steam boiler or unfired steam pressure vessels; exceptions. On and after September first, nineteen hundred thirty-one, no steam boiler or unfired steam pressure vessel subjected to a pressure of over fifteen pounds to the square inch shall be operated in this state unless such boiler or unfired steam pressure vessel shall have been registered in the office of the state department of labor and industry . . ."

"The provisions of this section shall not apply to boilers subject to federal inspection and control, or to boilers used in steamboats, or those under the control of the public utilities commission or boilers used in automotive vehicles."

Inspection  
Reports  
Required

"Sec. 53. Filing of inspection reports. In case a boiler is insured and inspected by a duly accredited insurance company licensed to do business in this state, a copy of the record of each internal inspection of such boiler shall be filed with the department of labor and industry."

1933 - P. L. Ch. 123 -- An Act Relating to Stamping of Registered Boilers.

Boilers  
to be  
Stamped

Sec. 52, Ch. 54 of the Revised Statutes of 1930 was amended by adding a requirement for state stamping of all registered boilers.

"Registered boilers to be stamped. After a steam boiler has

been registered in the department of labor and industry, said department shall furnish, and the owner or user shall stamp, or have stamped, a number as given, on the shell of the boiler in the space commonly used for such purposes, with letters and figures not less than 3/8th of an inch high. Any person, firm or corporation who fails to so stamp or obliterates or covers such numbers shall be punished by a fine of not more than \$100."

Board of  
Boiler Rules  
Established

1935 - P. L. Ch. 85 -- An Act Relating to the Use of Steam Boilers was enacted. This act was a major advance in the establishment of adequate legislation governing the use of steam boilers in the State of Maine. Its pertinent provisions were the establishment of a board of appeals of five members with authority after public hearing, to adopt rules and regulations for the safe construction and installation of steam boilers carrying over fifteen pounds per square inch.

Appointment of  
Chief Inspector

Sec. 4 provided that the Commissioner of Labor and Industry should appoint a chief inspector, "who shall be a citizen of this state who shall have had, at the time of such appointment, not less than 5 years practical experience with steam boilers as a steam engineer, mechanical engineer, boiler maker or boiler inspector . . . "

Appointment of  
Deputy Inspectors

"The commissioner of labor and industry may likewise appoint such deputy inspectors as are necessary to carry out the provisions of the act from among applicants who have successfully passed the examination and hold certificates of competency provided for in section 7 of this act."

Duties of  
Chief Inspector

Sec. 5 spelled out the powers of the chief inspector. He was given the right of entry; authority to issue, suspend and revoke inspection certificates; power of enforcement and other duties "relating to the provisions of the act."

Special  
Inspectors

Sec. 6 empowered the Commissioner of Labor and Industry "upon the request of any company authorized to insure against loss from explosion of steam boilers in this state, issue to the boiler inspectors of such company certificates of authority as special inspectors . . . "

Examination  
Fees

Sec. 7 provided that the fee for the examination for deputy and special inspection was to be \$5.

Certificate

Sec. 8 provided that the fee for an examination certificate covering the inspection of a boiler should be \$1 to be paid by the owner or user of such a boiler.

Inspection  
Charges  
By Whom Paid

The remaining provisions of the act covered the requirement of inspection certificates for both old and new boilers. It provided that the owner or user of a steam boiler should pay an inspection fee of \$5.

Insurance  
Notices  
Required

1935 - P. L. Ch. 110 -- This Act amended Sec. 53, Ch. 54, R. S. 1930, as amended, by adding the following sentence: "In case any insurance company cancels insurance upon any steam boiler carrying over 15 pounds gauge pressure or the policy expires and is not renewed, notice shall immediately be given the department of labor and industry. They shall likewise notify said department immediately upon the placing of insurance on such boiler."

1944 - R. S. Ch. 25, Sec. 51 to Sec. 73 incl. This is a revision of 1930,

R. S. Ch. 26, Sec. 28 and 29 as amended by the statutes passed subsequent to the 1930 revision.

1947 - P. L. Ch. 277 -- This Act amended 1944, R. S. Ch. 25, Sec. 58 by  
Examination and Inspection Fees Increased raising the fee for examination of deputy and special inspectors from \$5 to \$10. The inspection fee for boilers was also raised from \$5 to \$10. Comparable changes were made in other fees.

1949 - P. L. Ch. 349, Sec. 51 amended 1944, R. S. Ch. 25, Sec. 62 by pro-  
Fees for Boilers Without Grates viding a system for assessing fees when no grate area existed.

1953 - P. L. Ch. 305 amended 1944, R. S. Ch. 25 by adding thereto a new section to be numbered 59-A which read as follows:

Temporary  
Inspection  
Certificates  
to meet  
Emergencies

"Sec. 59-A. Temporary inspection certificates. Whenever it shall appear to the commissioner that an emergency affecting the public safety and welfare exists, the commissioner may authorize the chief inspector to issue a temporary inspection certificate for a period not exceeding 6 months after an inspection certificate shall have expired. A temporary inspection certificate may be issued without an internal inspection being made; provided, if the boiler is insured, the temporary inspection certificate shall not be issued until recommended in writing by the authorized inspector of the company insuring the boiler and by the chief inspector, or one of his deputies; or, if the boiler is not insured, the temporary inspection certificate shall be recommended in writing by at least 2 authorized state inspectors. The provisions as to posting of the inspection certificate shall apply to the temporary inspection certificate."

Coverage  
School  
Boilers

1953 - P. L. Ch. 319 amended 1944, R. S. Ch. 25, Sec. 59 by including  
"all hot water heating boilers located in schoolhouses."

1953 - P. L. Ch. 343 -- This Act amended Ch. 25, R. S. 1944, as Amended,  
by adding the following new section applicable to welding. It  
read as follows:

Authorization  
to do Welding  
on Boilers  
Required

"Sec. 69-A. Welding on boilers; certificates for welders. No  
journeyman welder performing welding work for hire shall make  
welding repairs to any steam vessel which carries a steam pressure  
of more than 15 pounds per square inch without first receiving  
authorization to do so from the chief boiler inspector, provided  
that the foregoing provision shall not apply to persons who hold  
certificates or standing authorization from the board of boiler  
rules.

Welders  
Examinations

"The board of boiler rules is authorized to make, amend or  
rescind reasonable rules and regulations relating to qualifica-  
tions of journeymen welders performing welding for compensation  
and is further empowered to conduct examinations, issue certifi-  
cates and to charge a reasonable fee for such examinations and for  
such certificates.

Penalties

"Any person violating the provisions of this section may be  
punished by a fine of not more than \$100."

1954 - R. S. Ch. 30, Sec. 64 to 88 incl. This is a revision of 1944, R.  
S. Ch. 25, Sec. 51 to 73 incl. as amended by the statutes passed  
subsequent to the 1944 revision.

Defines  
Schoolhouses

1955 - P. L. Ch. 404, Sec. 1 of this act amended Sec. 66, Ch. 30, R. S.  
1954 in which had been incorporated the laws on the subject which

had been adopted prior to this date. The word "schoolhouse" was defined as follows: "The term 'schoolhouse' as used in this chapter, shall include, but shall not be limited to, any structure used by schools or colleges, public or private, for the purpose of housing classrooms, gymnasiums, auditoriums or dormitories."

Inspection  
Requirements  
for Steel Boilers  
and  
Cast Iron  
Boilers

Sec. 2 amended Sec. 72, Ch. 30, R. S. 1954, to include hot water supply and hot water heating boilers and included municipally owned boilers under the coverage. The following sentence was inserted into the section: "Each steel boiler shall be inspected internally and externally; and all normally accessible surfaces of cast iron boilers shall be cleaned for inspection but need not be dismantled unless in the opinion of the inspector it is necessary."

Low Pressure  
Boilers  
Condemnation

Sec. 3 amended Sec. 83, Ch. 30, R. S. 1954, by requiring that condemned steam boilers could not operate with pressures exceeding 15 pounds per square inch and by further requiring that no condemned steam boiler located in a schoolhouse may be operated at all.

Fees for  
Granting  
Certificate of  
Authority by  
Reciprocity

1957 - P. L. Ch. 272 -- Sec. 2 of this act amended Sec. 71, Ch. 30, R. S. 1954, by providing for fees for certificates of authority granted under the reciprocity section of Sec. 70.

Sec. 7 of this act amended Sec. 83, Ch. 30, R. S. 1954, as amended by Sec. 3, Ch. 404, P. L. 1955, by including steam boilers or unfired steam pressure vessels "owned by a municipality" that, if condemned, could not be used at all.

1965 - P. L. Ch. 211 -- Amended R. S., Title 26, Sec. 244 and Sec. 245 in order to revise "Laws Relating to Fees for Inspections and Inspection Certificates under Boiler and Unfired Steam Pressure Vessel Law."

The effect of the statute is to increase the fees for the various types of inspection on the various types of boilers as well as the fees for inspection certificates required of such boilers. Editorial changes were made in various places for purposes of clarity and simplification.

1969 - P. L. Ch. 345, Sec. 2 -- Amended the last paragraph of Sec. 243 of Title 26 of the Revised Statutes to read as follows:

"In case an insurance company cancels insurance upon any boiler requiring inspection under section 244 not exempt by section 142 or the policy expires and is not renewed, notice shall immediately be given the department. Any insurance company shall likewise notify said department immediately upon the placing of insurance on such boiler."

1971 - P. L. 51 amended the various sections of the boiler law by removing the word "steam" wherever it appeared in order to make clear that all types of boilers were subject to the law and the rules and regulations promulgated thereunder.

1971 - P. L. 55 removed the exemption for boilers "under the control of the Public Utilities Commission."

1971 - P. L. 447 added a new section 178 to Title 26 to provide for voluntary applications for and issuance of licenses as boiler engineers and firemen, such licenses to be issued by the Board of



Boiler Rules after proper examination and payment of fees. Here-  
tofore, such engineers and firemen had been licensed only by mu-  
nicipalities and the procedures varied from city to city. This  
section was completely revised in 1973.

This Chapter also raised the fee for new licenses from \$2 to \$5;  
for renewals from \$1 to \$3; and for replacement of lost licenses  
from 25¢ to \$1.

1972 - P. & S. Ch. 179, Sec. F increased the fee for boiler inspection  
certificates from \$3 to \$5.

1973 - P. L. Ch. 33 amended Title 26 by requiring that all new pressure  
vessels, with certain exceptions, be registered with the Bureau  
and that all new pressure vessels be constructed and stamped in  
compliance with the ASME code. The purpose of this change was to  
bring the Maine law up to the standards set under the Occupational  
Safety and Health Act.

1973 - P. L. Ch. 34 amended Title 26 to permit the Board of Boiler Rules  
and Regulations to specify the method and frequency of inspections  
of steel hot water heating boilers. The law had required that  
such boilers be internally inspected annually which was not con-  
sidered to be a good engineering practice.

1973 - P. L. Ch. 452 repealed and replaced section 178 of Title 26 which  
had been enacted in 1971 to provide voluntary licensing of engi-  
neers and firemen. The revised law established dates after which  
the licensing would be required rather than voluntary for differ-  
ent categories, to start September 1, 1974 for a person to "oper-  
ate or have charge of any plant having a capacity of over 50,000

pounds of steam per hour" down to September 1, 1977 for "plants having a capacity of under 5,000 pounds of steam per hour."

The new law provided for an examining committee to be appointed by the Board of Boiler Rules to "consist of 5 members, one of whom shall be a member of the board, one of whom shall be an authorized boiler inspector employed by an insurance carrier licensed to do business in this State, one of whom shall be appointed from the public at large and who shall be knowledgeable in matters dealing with plant operation, one of whom shall have charge of plants and one of whom shall be an operator of plants."

Also spelled out were two grades of boiler operator's licenses and four classes of engineering licenses and the fees to be charged.

Another provision was to exempt entirely from the boiler laws any coverage of "boilers of companies under the jurisdiction of the Public Utilities Commission or the United States Atomic Energy Commission." This exemption was revised in 1974 to apply only to the licensing of operators and engineers as originally intended.

1974 - Ch. 669 amended Sec. 142 of Title 26 to remove the exemption from all the boiler laws, rules and regulations for "boilers of companies under the jurisdiction of the Public Utilities Commission or the United States Atomic Energy Commission" and place this exemption in Sec. 178 where it would apply only to the licensing of persons operating such boilers.

## LAWS PERTAINING TO ELEVATORS

The first restrictions on operation of elevators appears in the laws in 1907 and the first reference to the safety of elevators appears in 1911 when they were included in the list of machinery in manufacturing and mechanical establishments which, if upon inspection are found in unsafe condition, must be corrected.

1907 - P. L. Ch. 4 -- "An Act in relation to the employment of Custodians of Elevators."

Minors  
Under 18  
Not Allowed

"Sec. 1. No person, firm or corporation shall employ or permit any person under fifteen years of age to have the care, custody, management or operation of any elevator, or shall employ a person under eighteen years of age to have the care, custody, management or operation of any elevator running at a speed of over two hundred feet a minute."

1911 - P. L. Ch. 65, Sec. 4 provided the first mechanical safety act and in the list of hazards covered, elevators were included in this group.

1916 - R. S. Ch. 49, Sec. 33 -- This revision incorporated the statute as referred to above.

Minors  
Under 18  
Not to Operate  
Hotel Elevators

1927 - P. L. Ch. 171, Sec. 3 -- This section amended Sec. 33, Ch. 49, R. S. 1916, in which has been incorporated the laws on the subject which had been adopted prior to this date, as amended, by inserting the following words: "... or shall employ any minor under sixteen years of age to have the care, custody, management of

operation of any elevator in any hotel, lodging house or apartment house."

Revised  
Statute

1930 - R. S. Ch. 54, Sec. 38 -- This revision incorporates 1927, P. L. Ch. 171, Sec. 3, which amended the previous revised statute.

1944 - R. S. Ch. 25, Sec. 37 -- This revision brings forward the revision of 1930 without change.

1954 - R. S. Ch. 30, Sec. 49 -- This revision brings forward the revision of 1944 without change.

After a serious accident in December, 1946, when twelve were injured and two were killed, the legislature in 1949 adopted a comprehensive elevator safety law.

#### BOARD OF ELEVATOR RULES AND REGULATIONS

1949 - P. L. Ch. 374 -- An Act Relating to Elevators. This is a completely new act and it amended 1944, R. S. Ch. 25, "by adding thereto 17 new sections . . . " The major provisions are as follows:

Establishment  
of Board

Sec. 99-A -- A Board of 5 was established.

Duties  
and  
Powers  
Defined

Sec. 99-C -- "The board shall formulate reasonable rules and regulations for the safe and proper construction, installation, alteration, repair, use, operation and inspection of elevators in the state. The rules and regulations so formulated shall conform as far as practicable to the standard safety code for elevators as approved by the American Standards Association."

Certificates  
of  
Authority

Sec. 99-F empowered the commissioner to issue a certificate of authority to an elevator inspector of an insurance company doing business in this state, or to an inspector employed by an elevator company, and when found to be qualified, he, the authorized inspector, was empowered to make the required state inspections of the elevators his employing company insured or maintained.

Revocation of  
Certificates  
of  
Authority

Provision was made for revocation of a certificate of authority for "Incompetence or untrustworthiness of the holder thereof or wilful falsification of any matter or statement contained in his application or in a report of any inspection."

Examination

Sec. 99-G provided that all inspectors, state and authorized, must be examined.

Inspection  
of  
Elevators

Sec. 99-H required all elevators to be thoroughly inspected and an inspection certificate issued. No elevator could operate without such a certificate being posted within the elevator. It required that all passenger elevators be inspected every 6 months and every freight elevator each year.

Supervision of  
Certificates and  
Condemnation of  
Elevators

Provision was made for the suspension of an inspection certificate when necessary because of non-compliance with the rules. Also, when an elevator was deemed unsafe and a "menace to public safety" it could be ordered out of service at once.

Remaining  
Sections

The remaining sections of the act dealt with standards of new and existing elevators in use or being installed prior to the passage of the act; appeals, filing of inspection reports; etc.

Inspection  
Fees

1951 - P. L. Ch. 290 raised the elevator inspection fees consistent with increased costs of inspection and administration.

**Agricultural  
Exemption**

Sec. 3 included in the exemptions the following: "... or those used for agricultural purposes on farms."

**Revised  
Statutes**

1954 - R. S. Ch. 30, Sec. 115 to 131 inclusive. The provisions of 1949, P. L. Ch. 375 as amended by Ch. 290, P. L. 1951, are carried forward to the above noted chapter and sections of the Revised Statutes.

1955 - P. L. Ch. 30 amended definition of elevator "to include the doors, well, enclosures, means and appurtenances required by these regulations."

1959 - P. L. Ch. 317, Sec. 11 -- This section amended Sec. 127, Ch. 30, R. S. 1954, by repealing the last paragraph and enacting in its place the following: "An appeal may be taken to the law court as in other actions."

1961 - P. L. Ch. 317, Sec. 62 -- This act made a technical revision in R. S. 1954, Ch. 30, Sec. 127, as Amended, by striking out the words "a justice thereof."

1965 - P. L. Ch. 82 -- This Chapter amended the first sentence of subsection 5 of Sec. 401 of Title 26 of the Revised Statutes to read as follows:

"Elevator" shall mean a hoisting and lowering mechanism equipped with a car or platform or load-carrying unit, which is guided in a substantially vertical direction, and shall include the doors, well, enclosures, means and appurtenances required by these regulations."

1965 - P. L. Ch. 313 -- This Chapter amended Sec. 461 of Title 26 of the Revised Statutes by raising the registration fee from \$2 to \$3.

Sec. 464 of the same title was amended by increasing the fee for an initial inspection from \$10 to \$20 and for each "required periodic inspection subsequent to the initial inspection" from \$6 to \$10.

1967 - P. L. Ch. 312 -- An Act Relating to Licensing of Elevator Mechanics.

This chapter restricts the servicing, repairing, altering or installing of any elevator to mechanics who are licensed under the terms of Sec. 440 of the statute pertaining to elevators. It also defines the qualifications of an elevator mechanic. In addition the details as to examination, application and fees are carefully spelled out.

1967 - P. L. Ch. 208 -- An Act Relating to Definition of Elevator Under Board of Elevator Rules and Regulations.

In this Act the words "or authorized personnel on a construction site" are added to the second sentence of subsection 5 of Sec. 401 of Title 26 of the Revised Statutes, as amended by Ch. 82 of the Public Laws of 1965 so as to read in part " . . .for the primary purpose of elevating or lowering building materials or authorized personnel on a construction site . . . "

1969 - P. L. Ch. 100 -- This is an Act entitled "An Act Providing that Revenues Received in Enforcement of Elevator Law shall be credited to the General Fund."

- 1971 - P. L. Ch. 14 amended Sec. 435 of Title 26 by removing the authorization for the Commissioner to issue certificates of authority to inspect elevators to employees of elevator companies, and also made inspection of insured elevators by authorized insurance company inspectors employed by the insurance company optional rather than mandatory.
- 1971 - P.L. Ch. 44 removed the exemption from coverage under the elevator law for elevators "under control of the Public Utilities Commission."
- 1971 - P. L. Ch. 110 added escalators and manlifts to the coverage of the elevator statutes, and required more frequent inspections to be made as follows: "every passenger elevator periodically every 3rd calendar month and every freight elevator, escalator and manlift every 6th calendar month . . ."
- 1972 - P. & S. Ch. 179, Sec. F, increased the registration fee from \$3 to \$5.
- 1973 - P. L. Ch. 47 changed the membership of the Board of Elevator Rules and Regulations by replacing the Commissioner of Public Safety with a member of the Division of Fire Prevention appointed by the Commissioner of Public Safety, and adding a 6th member to be a licensed elevator mechanic. This Chapter also provided that the supervising inspector of elevators should be the secretary of the Board.
- 1974 - P. L. Ch. 683 increased the fee for each required periodic inspection of elevators subsequent to the initial inspection from \$10 to \$15.



Based upon the above statute the case of Jones vs Co-operative Association of America was "an action to recover damages for personal injuries to the plaintiff resulting from the alleged negligence of the defendant in the operation and control of the elevators in its store in Lewiston." It was specifically alleged "that the defendant negligently and carelessly placed in charge of the elevator to run and operate the same, an inexperienced, incompetent and unsuitable boy of immature years, contrary to law." This case was argued before the Superior Court of Androscoggin County and an opinion was passed down on November 9, 1912. "At the conclusion of the plaintiff's evidence, the presiding justice ordered a nonsuit upon the defendant's motion, with a stipulation on the part of the defendant that if, for any reason, the order for a nonsuit is overruled, and the case sent back for trial, the question of damages only shall be submitted to the jury. The plaintiff excepted to the order for nonsuit." The case was stated to the Law Court and it was ruled that "Exceptions sustained; case to stand for trial upon question of damages only."

109 Me. 448

In the case of George Nelson, Administrator, vs Burnham & Morrill Company, suit was brought to recover damages as the result of the death of a minor who was operating an elevator without authorization. The presiding Justice of the Supreme Court directed a nonsuit. The plaintiff excepted to said nonsuit. The case was reviewed by the law court and it was held that "the case discloses no liability on the part of the defendant, and that the order of nonsuit was right." This decision was based upon the determination that the deceased minor was a trespasser and that, therefore, the defendant owed no duty to him and there was "no liability on the part of the defendant . . ." "The above action was brought under Revised Statutes, Chapter 89, Section 9."

114 Me. 213

## LABOR RELATIONS

### A. State Board of Arbitration and Conciliation

The State Board of Arbitration and Conciliation is a tripartite board appointed by the governor with the advice and consent of the council. It is charged with the duty to endeavor to settle disputes, strikes, and lockouts between employers and employees. It is the responsibility of the board to further harmonious labor-management relations in this State.

The establishment of a State Board of Arbitration and Conciliation came about following a review of happenings in the industrial field. Commissioner Thomas J. Lyons in his report to the governor for the year 1908 stated that "a review of happenings in the industrial field, especially during the past year, leads to the belief that there should be a State Board of Arbitration and Conciliation."<sup>(1)</sup>

The first State Board of Arbitration and Conciliation was created in 1909 and appears in Chapter 229 of the Public Laws of that year. At that time it provided for three members, one to be an employer of labor or selected from some association representing employers of labor, one to be an employee or an employee selected from some bona fide trade or labor union and not an employer of labor, and the third to be appointed on the recommendation of the other two; provided, that if the two appointed to not agree on the third man at the expiration of thirty days from their appointment, he shall be selected and appointed by the governor. The original board was given the duties that have continued

---

(1) P. XIV - Report of Industry and Labor Statistics - Maine, 1908

unchanged; namely, to endeavor to settle disputes, strikes, and lockouts between employers and employees.

The original act provided that "If it appears to the mayor of a city or the selectmen of a town that a strike is seriously threatened or actually occurs, he or they shall at once notify the state board, and such notification may also be given by the employer or employees actually concerned in the strike or lockout. The state board shall then endeavor by mediation to obtain an amicable settlement or endeavor to persuade the employer and employees to submit the matter in controversy to a local board of conciliation and arbitration or to the state board. If submitted, the board shall investigate such controversy and ascertain which party is mainly responsible or blameworthy for the existence of the same, and the board may make and publish a report finding such cause and assigning such responsibility or blame. The state board shall, upon request of the governor, investigate and report upon any controversy if in his opinion it threatens to affect the public welfare.

Upon proper application the board shall make careful inquiry into the cause of a controversy. In such cases the board shall hear all persons interested who come before it, advise the respective parties what ought to be done or submitted to by either or both to adjust said controversy, and make a written decision which shall be binding on the parties for a period of six months or until the expiration of sixty days after either party has given notice in writing of his intention not to be bound thereby.

Changes have been made in the original law and those changes are noted below, in chronological order.

- 1909 - P. L. Ch. 229 -- State Board of Arbitration and Conciliation established. Its duties shall be to endeavor to settle disputes, strikes and lockouts between employers and employees.
- 1913 - P. L. Ch. 143 -- This Act amends Sec. 3 of Ch. 229, P. L. 1909. It raises the per diem rate for members from three dollars to five dollars. It also states that the annual report previously published with the annual report of the bureau of industrial and labor statistics shall now be incorporated in and printed with the biennial report of the department of labor and industry.
- 1913 - P. L. Ch. 16 -- A newly enacted law to provide that advertisements for help clearly state that a strike or disturbance exists. This act shall not be operative if the business is being carried on in a normal manner as determined by the board of arbitration and conciliation. A penalty of a fine of not less than \$25 nor more than \$50 is provided.
- 1941 - P. L. Ch. 292 -- This Act amended Sec. 1 of Ch. 54, R. S. to insert the following: "Workers shall have full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other internal aid or protection, free from interference, restraint or coercion by their employers or other persons." In his message of 1939 Governor Barrows stated "I favor the enactment of labor relations legislation which is adapted to the needs and protection of Maine labor and which insures the right of workers to organize and bargain collectively. At the same time, if we are to attain the degree of human

relationships that we need for industrial security, there must be some protection for the employer against confiscation of plant properties and wanton sabotage.

"If the Department of Labor and Industry had more clearly defined authorization to properly assist and conciliate in labor disputes, I feel that it would promote continued harmonious relations, eliminate temporary curtailment of production, with its consequent loss of wages and consuming power."

1945 - P. L. Ch. 282 -- This Chapter amended the law to provide that the third member of the board shall be chairman and shall represent the public interests in the state.

A provision was made that in addition to the mayor of a city or the selectman of a town any citizen of the state directly involved or about to be involved therein shall notify the board of a strike or threat of a strike.

The word "dispute" was added to broaden Sec. 11 of Ch. 25, R.S. 1944 so as to read "dispute, strike, or lockout." Specific authority was given the board to subpoena either party.

A further revision was made by specifying that if a matter is submitted to the board, "and the parties involved in the dispute, strike, or lockout, or their proper representatives agree to abide by the decision of the board, 'said board' shall investigate and ascertain which party is responsible and may make and publish a report finding such cause and assigning such responsibility or blame."

1955 - P. L. Ch. 462 -- This Act is a complete revision of the State

Board of Arbitration and Conciliation section of the law.

A new provision was made for three alternate members to be appointed, with qualifications, responsibilities and duties similar to the regular board members. It divided the work of the Board into three distinct functions, (1) as a Board of Inquiry; (2) as a Board of Conciliation; or (3) as a Board of Arbitration. Procedures for each function were spelled out. It should be noted that the 1955 act eliminates all authority on the part of the Board to assess blame for a controversy that is before it. Specific authority was given the Board to recess any negotiations. The act refined the procedures to be followed by the Board when acting in any one of its three capacities.

1959 - P. L. Ch. 223, Sec. 3 -- This is a new section providing that proceedings before the Board shall be confidential "except as provided in section 15-G."

1969 - P. L. Ch. 450, Sec. 1 -- This section amended Sec. 911 of Title 26 of the Revised Statutes to read as follows: "Members of the board shall each receive \$50 a day for their services, for the time actually employed in the discharge of their official duties." Sec. 2 amended Sec. 911 by providing the following: "Six alternate members, having the same qualifications as members and 2 being from each category, shall be appointed in the same manner and for the same terms as members, and shall, when serving as members of the board, have the same responsibilities and duties and be entitled to the same privileges and emoluments, as members."

## B. Panel of Mediators

In furtherance of the policy of the State to provide full and adequate facilities for the settlement of disputes a Panel of Mediation has been established. The need for such a service first appears in the inaugural address of Governor Payne in 1951, following his comments on the excellent labor-management relations in the State and the fine work of the State Board of Arbitration and Conciliation. We quote directly from the Governor's Address, "Our record of labor-management relations is one of the best in the nation and deserves high praise. This spirit of cooperation is one of the greatest assets we possess.

"The State Board of Arbitration and Conciliation has performed its work admirably for which it has been commended publicly.

"Study should be given to the need of a State mediation service."<sup>(1)</sup>

1951 - P. L. Ch. 353 -- This is the original act establishing the Panel of Mediators. This chapter of the law also provides that "Any information disclosed by either party to a dispute to the Panel or any of its members in carrying out (their duties) shall be privileged."

The Panel of Mediators consists of five impartial members appointed by the governor, with the advice and consent of the Council for a three year term. The Governor shall also appoint one of the five members to serve as chairman, also with the advice and consent of the Council. It also provided the following limitation that "neither the commissioner nor

---

(1) 1951, P. L. - page 1168 - Excerpt from Inaugural Address of Governor Payne.

any official of the Department of Labor and Industry nor any member of the Board of Arbitration and Conciliation shall be eligible to serve as a member of the panel, nor have any jurisdiction or authority over the panel in the performance of its duties."

The member or members of the panel are charged with the responsibility "to encourage the parties to the dispute to settle their differences by conference or other peaceful means." They cannot act if there is an agreement between the disputing parties that provides a method to settle such disputes.

1971 - P. L. Ch. 19 provided a new Sec. 882-A of Title 26: "The employer, union and employees shall notify the Panel of Mediators whenever contracts are to be negotiated between the employer and the employees or whenever a dispute arises between the parties threatening interruption of work, or under both conditions."

1971 - P. L. Ch. 506 increased the per diem for members of the Panel of Mediators from \$25 a day to \$50.

1973 - P. L. Ch. 617 repealed Sec. 881 to 885 and placed the Panel of Mediators in the Public Employees Labor Relations Law as Subsec. 2 of Sec. 965, Title 26, including its budget in that of the Public Employees Labor Relations Board, with expenditures to be authorized by the executive director of the Board, who would also act as executive director of the Panel of Mediators.

This Chapter also permitted the expansion of the Panel up to 10 members and increased their per diem from \$50 to \$75.



### C. Arbitration Pursuant to Collective Bargaining Contracts

Chapter 409, P. L. 1957 provides that a written provision in any collective bargaining contract to settle by arbitration or controversy thereafter arising out of such contract is legal and binding. It establishes the validity, irrevocability and enforceability of such contracts, subject to provisions of existing law or in equity for the revocation of any contract.

Provision has been made for stay of proceedings where issue therein referable to arbitration.

A party aggrieved by the alleged failure, neglect or refusal of another to arbitrate in accordance with any agreement embraced within the preceding section may institute proceedings in any court having jurisdiction in equity. Such proceedings shall be for an order directing that such arbitration proceed in the manner provided in the collective bargaining agreement or written submission agreement. Five days notice is required to the defaulting party. If no jury trial be demanded, the court shall proceed summarily to the trial thereof.

If the agreement contains a specific provision for the selection of an arbitrator or arbitrators then that method shall be followed. If no method has been provided or if a method has been provided but any party thereto has not availed himself of such method or if for any reason there shall be a lapse in the naming of the arbitrator, then upon application of either party to the controversy the court shall designate and appoint an arbitrator or arbitrators or umpire who shall act under said agreement with the same force and effect as if he or they had been specifically named therein.

Further provisions have been made covering witnesses and records, fees and confirmation of the award of arbitrators. The conditions under which awards may be vacated have also been carefully delineated.

Chapter 409, P. L. 1957 was amended by P. L. 1961, Ch. 317, Secs. 55 to 59, inclusive. These amendments were to bring the statute in conformity to the Rules of Civil Procedure. Such amendments change "equity cases" to "civil actions" and "equity actions" to "actions not triable of right by a jury." The Superior Court is substituted for "any court having jurisdiction in equity." Other revisions are of a similar nature.

## MUNICIPAL PUBLIC EMPLOYEES LABOR RELATIONS LAW

1969 - Ch. 9-A -- This Chapter is entitled "An Act Establishing the Municipal Public Employees Labor Relations Law." Sec. 961 states the purpose of the Act to be as follows:

### Purpose

"It is declared to be the public policy of this State and it is the purpose of this chapter to promote the improvement of the relationship between public employers and their employees by providing a uniform basis for recognizing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms and conditions of employment."

### Rights

Sec. 963 - Right of public employees to join labor organizations. "No one shall directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against public employees or a group of public employees in the free exercise of their rights, hereby given, voluntarily to join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining, or in the free exercise of any other right under this chapter."

### Obligation

Sec. 965 - Obligation to bargain. This section states that "It shall be the obligation of the public employer and the bargaining agent to bargain collectively." Collective bargaining is then defined as the mutual obligation

A. To meet at reasonable times;

B. To meet within 10 days after receipt of written notice . . .;

- C. To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration . . . ;
- D. To execute in writing any agreements arrived at . . . ;
- E. To participate in good faith in the fact-finding and arbitration procedures required by this section.

Whenever the negotiations between the parties can be helped by the assistance of a third party, this section provides for mediation services, fact-finding and arbitration. The procedures with respect to these services are spelled out in the section.

Sec. 966 - Bargaining unit; how determined.

**Bargaining  
Unit**

"In the event of a dispute between the public employer and an employee or employees as to whether a supervisory or other position is included in the bargaining unit, the commissioner shall make the determination . . . "

Sec. 967 - Determination of bargaining agent.

**Recognition**

1. Voluntary recognition. A bargaining agent may be determined if the public employer agrees to accept the request for recognition as submitted by the public employee organization.

2. Elections. A request for an election to determine the bargaining agent may be submitted to the Commissioner of Labor and Industry by the public employer or by a signed petition of at least 30% of a bargaining unit of public employees. The commissioner shall then "conduct a secret election to determine whether the organization represents a majority of the members in the bargaining unit.

Sec. 968 - This section establishes a Public Employees Labor Relations Appeals Board of 3 members to be appointed by the Governor, with the advice and consent of the Council. "Whenever any party is aggrieved by any ruling or determination of the commissioner under sections 966 and 967, such party may appeal, within 15 days after the announcement of the ruling or determinations, to the Public Employees Labor Relations Appeals Board hereinafter established."

Sec. 2 of Ch. 424 repealed Ch. 10 of Title 26 of the Revised Statutes, as enacted by Ch. 396 of the Public Laws of 1965. The statute thus repealed was known as the Fire Fighters Arbitration Law.

1970 - Ch. 578 -- This Act amended 1969 P. L. Ch. 424 in several instances as follows:

Sec. 962-F - now reads: "Who has been employed less than 6 months."

Sec. 962-G - This is a new section and reads "Who is a temporary seasonal or on-call employee."

Sec. 972 - This is a new section and reads as follows: "Either party may seek a review by the Superior Court of a binding determination by an arbitration panel or a decision of the Public Employees Labor Relations Appeals Board. Such review shall be sought in accordance with Rule 80-B of the Rules of Civil Procedure.

"The binding determination of an arbitration panel or arbitrator or the decision of the Public Employees Labor Relations

Appeals Board, in the absence of fraud, upon all questions of fact shall be final. The court may, after consideration, affirm, reverse or modify any such binding determination or decision based upon an erroneous ruling or finding of law. An appeal may be taken to the law court as in any civil action."

1972 - P. L. Ch. 609 changed the Public Employees Labor Relations Appeals Board to the Public Employees Labor Relations Board, and placed the authority with the Board and its executive director for carrying out the requirements of the law, rather than with the commissioner. The new Board consisted of "3 members to be appointed by the Governor, with the advice and consent of the Council . . . one member to represent public employees, one to represent public employers and the 3rd member to represent the public, who shall be the board's chairman." Remuneration was set at \$50 a day plus expenses. The executive director "shall be appointed by the board to serve at their will and pleasure" and "shall be trained in the law and experienced in the field of labor relations."

The amended law contained explicit procedures for the prevention of prohibited acts, beginning with the filing of complaints with the executive director, hearings before the board, orders by the board "to cease and desist" and filing of civil action in the Superior Court.

1973 - P. L. Ch. 458 clarified the meaning of the law by changing the wording. Some of this was necessitated by the reorganization which changed the Department of Labor and Industry to a Bureau within the Department of Manpower Affairs and changed the title of the

Bureau head from Commissioner to Director. Also required by this chapter was reporting to the executive director of the board of the results of arbitration proceedings.

1973 - P. L. Ch. 533 changed the civil action in cases where a party failed to comply with an order of the board to cease and desist from a prohibited act from the Superior Court in the county in which the prohibited practice was found to the Superior Court of Kennebec County, and provided that the court might grant temporary relief or restraining order but that the board's decision might not be stayed "except where it is clearly shown to the satisfaction of the court that substantial and irreparable injury shall be sustained or that there is a substantial risk of danger to the public health or safety."

Sec. 2 amended the provisions for review by the Superior Court by requiring that complaints must be filed within 15 days of the effective date of the decision, requiring a hearing at the earliest possible time, allowing temporary relief or restraining order, requiring the executive director of the board to file in the court the record in the proceeding, and stipulating that the hearing be held not less than 7 days after notice.

1973 - P. L. Ch. 610 expanded the membership of the board to include three alternate members and raised the per diem for members from \$50 to \$75; the chairmen to receive \$100.

1973 - P. L. Ch. 617 moved the Panel of Mediators law to a subsection of the Public Employees Labor Relations Law, with the executive director of the board being also the executive director of the panel.  
(See Panel of Mediators)

## State Employees Labor Relations Act

1974 - P. L. Ch. 774 -- This Act provided collective bargaining rights for state employees, effective January 1, 1975. In general terms, it was an extension of the municipal public employees labor relations law, using the same Public Employees Labor Relations Board and its executive director for administration. There were, of necessity, some differences in procedures. The drafting of the bill took many months during which all interested parties had an opportunity to participate, thus minimizing the opposition which had been apparent during previous attempts to enact such legislation.

The definition of "public employer" specified that "the State shall be considered as a single employer and employment relations, policies and practices throughout the state service shall be as consistent as practicable." Responsibility for negotiation and administration of collective bargaining agreements was placed in the executive branch but there was a further stipulation that "To coordinate the employer position in the negotiation of agreements, the Legislative Council or its designee shall maintain close liaison with the Governor or his designee representing the executive branch relative to the negotiation of cost items in any proposed agreement." And further, "It is the responsibility of the legislative branch to act upon those portions of tentative agreements negotiated by the executive branch which require legislative action."



The definition of "state employee" included all employees performing services within the executive department except those elected by popular vote; appointed pursuant to statute, ordinance or resolution for a specified term by the Governor or other body; department and division heads appointed for unspecified terms by the Governor or other body; employees with a confidential relationship with respect to matters subject to collective bargaining as between such employee and the Governor, department head or body having appointive power; those employed less than 6 months; temporary, seasonal or on-call employees; and members of the State Militia or National Guard.

Exceptions to the matters subject to collective bargaining were made for "those matters which are prescribed or controlled by public law" and personnel administration rules and regulations "relating to applicants for employment in state service and classified employees in an initial probationary status . . . provided such rules and regulations are not discriminatory by reason of an applicant's race, color, creed, sex or national origin." Respect for the principle of the merit system was indicated by a statement that nothing in the section on the obligation to bargain "shall be construed to be in derogation of or contravene the spirit and intent of the merit system and personnel laws."

The section on arbitration spelled out in some detail the items the arbitrator must consider in reaching his decision, including among others the financial ability of the State Government, comparison of wages with other public or private employment, fringe

benefits, need of State Government for qualified workers, and appropriate relationships between different occupations in State Government.

## VOLUNTARY APPRENTICESHIP SYSTEM

### General Statement

1943 - P. L. Ch. 258 -- This Act provided for a system of apprenticeship whereby voluntarily made agreements of apprenticeship would be encouraged. It established standards for such agreements in conformity with the minimum apprenticeship standards of the Federal Committee on Apprentice Training. It also created an Apprenticeship Council and defined its duties.

#### Definitions

Sec. 1 established definitions of the following: "Apprentice" shall mean a person at least 16 years of age, employed under a written agreement to work at and learn a specific trade. "Apprentice agreement" shall mean a written agreement entered into by an apprentice or organization of employees with an employer, or with an association of employers, which agreement provides for not less than 4,000 hours of reasonably continuous employment for the apprentice, for his participation in a definite sequence of job training, and for at least 144 hours per year of related and supplemental instruction. "Council" shall mean the Maine State Apprenticeship Council.

#### State Apprenticeship Council

Sec. 2 provided for the appointment of a State Apprenticeship Council to be appointed by the Governor. It was composed of 9 members, 3 being representatives of employees, 2 of whom shall be members of a union; 3 being representatives of employers, 2 being employers or representatives of employers; and 3 being representatives of the public. The director of vocational education and the commissioner of labor and industry shall be available to the

council for consultation.

Duties  
of  
Council

The council's duties were to (1) establish standards and assist in the development of apprenticeship agreements; (2) issue rules and regulations; and (3) make an annual report to the Governor of its activities and results.

Standards

Sec. 4 established standards for apprenticeship agreements.

1944 - R. S., Ch. 25, Sec. 116-120 inclusive. The previously passed act was brought forward, unchanged, in this revision.

Qualifying  
Instruction

1951 - P. L. Ch. 172, Sec. 1 of this act amended 1944, R. S., Ch. 25, Sec. 116, by removing the limitation of "at least 144 hours of related and supplemental instruction" and replacing it with "such related and supplemental instruction as may be deemed necessary to qualify as a journeyman in the particular trade effected."

Sec. 2 of this act amended 1944, R. S., Ch. 25, Sec. 117, by rewriting and rearranging the duties of the council. It added that the council should "generally encourage and promote the establishment of apprenticeship programs."

Duties  
of  
Council

Further authority was given to the council to register or terminate the registration of apprenticeship programs and agreements; issue certificates of completion; keep a record of programs and agreements; and "cooperate with the state department of education and the local school authorities in the organization and establishment of classes of related and supplemental instruction for apprentices employed under approved agreements."

Sec. 5 provided for related and supplemental instruction and placed this responsibility in the state and local boards of

**Related  
Instruction**

education. "The state department of education shall be responsible . . . for related and supplemental instruction for apprentices as may be employed under apprenticeship programs registered and approved by the council."

Sec. 6 provided for the approval of local, regional and state joint apprenticeship committees whenever training needs justify.

1954 - R. S., Ch. 30, Sec. 148 to 154 inclusive brought forward the previous revision as subsequently amended by 1951, P. L., Ch. 172, Sec. 1 to 6 inclusive.

**Membership  
Increased**

1963 - P. L. Ch. 72 -- This Act revised the Maine Voluntary Apprenticeship Law by amendments to 1954, R. S., Ch. 30, Sec. 148 to 154 inclusive. The major amendments accomplished the following: increased the membership on the State Apprenticeship Council from 9 to 11 members, provided for the naming of a secretary and "made the Director of Vocational Education, the Commissioner of Labor and Industry and the Chairman of the Maine Employment Security Commission ex officio members."

**Budget  
Change**

It further provided that "The budget request of the council shall be incorporated in the overall budget of the Department of Labor and Industry, and the commissioner shall be responsible for the disbursement of these funds according to council policy. The commissioner shall be responsible for the selection and supervision of all personnel who may be employed by the council." It was provided that the annual report of the council shall be "incorporated in the biennial report of the Commissioner of Labor and Industry." In addition a no discrimination clause was added to the standards for apprenticeship agreements.

**Biennial  
Report**

Elimination  
of  
4000 hours  
Provision

1965 - P. L. Ch. 43 -- Sec. 1 of this Act amends subsection 2 of Sec. 1001 of Title 26 of the Revised Statutes by striking from that section the following words: ". . . for not less than 4000 hours of reasonably continuous employment for the apprentice. . ." In addition, R. S. Title 26, Sec. 1004, subsection 1 is amended by striking out the following words: ". . . which shall not be less than 4000 hours of reasonably continuous employment."

1969 - P. L. Ch. 106 -- This Act amended Sec. 1002 of Title 26 of the Revised Statutes so that the fourth sentence now reads: "The chairman and secretary of the council shall be named by the members of the council and the chairman shall be a member of the council."

## MINIMUM WAGES FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS

1933 - P. L. Ch. 238 -- This Chapter is entitled "An Act Relating to Minimum Wages for Laborers." It reads as follows:

Policy "Minimum Wage. In the employment of laborers in the construction of public works, including state highways, by the State or by persons contracting therewith for such construction, preference shall first be given to citizens of the State who are qualified to perform the work to which the employment relates, and, if they cannot be obtained in sufficient numbers, then to citizens of the United States; and every contract for such work shall contain a provision to this effect. The wages for a day's work paid to laborers employed in the construction of public works, including state highways, as aforesaid shall not be less than the prevailing rate paid by the state for similar work done by the highway commission. Any contractor who knowingly and willfully violates this section shall be punished by a fine of not more than \$100. Each day that any contractor employs a laborer at less than the minimum wage herein stipulated shall constitute a separate violation of this section."

1944 - R. S. Ch. 25, Sec. 40 carries forward the provisions of the previously noted Ch. 238 of the Public Laws of 1933.

1954 - R. S. Ch. 30, Sec. 56 carries forward the provisions of R. S. Ch. 25, Sec. 40.

1954 - R. S. Title 26, Sec. 1303 -- This section is unchanged from the previously noted Sec. 56, Ch. 30, R. S. 1954.

1965 - P. L. Ch. 406 -- This Chapter is entitled "An Act to Provide for Fair Minimum Wages for Construction of Public Improvements." It amended the third sentence of Sec. 1303 of Title 26 of the Revised Statutes in a minor way for purposes of clarification.

Sec. 2 of Ch. 406 further amended Title 26 of the Revised Statutes by adding 10 new sections, 1304 to 1313. A "Minimum Wage Rate Board" was established and certain definitions were spelled out.

The policy of the State within the meaning of Ch. 406 was defined as follows:

"It is declared to be the policy of the State of Maine that a wage of no less than the prevailing hourly rate of wages for work of a similar character in this State in which the construction is performed, shall be paid to all workmen employed by or on behalf of any public authority engaged in the construction of public improvements."

The fair minimum rate of wages applied to the construction of public improvements,"the estimated cost of which is \$5000 or more" and applicable details with respect to the establishment of the rate was spelled out.

The Minimum Wage Rate Board consists of 5 members appointed by the Governor with the advice and consent of the council and are to be drawn from certain selected categories. "The Commissioner of Labor and Industry shall designate an employee of the Department of Labor and Industry to be the permanent secretary of the Board."

Specific requirements such as frequency of establishing rates,



appeals from the findings of the Board, penalties for violation, etc., were included.

1967 - P. L. Ch. 403 -- The title of this Chapter is "An Act Relating to Fair Minimum Wages for Construction of Public Improvements by State of Maine." It is a major revision of the previous statute in that it repeals and replaces "section 1304 to 1313 of Title 26 of the Revised Statutes, as enacted by section 2 of chapter 406 of the public laws of 1965." Some of the changes are as follows:

1. In assembling the data as to wages, they shall be taken from contractors employing 5 or more construction workers in the State during the 2nd and 3rd week of September of each year.

2. No minimum wage shall be established for any trade or occupation if less than 10 workers are employed in such trade or occupation in the State in the 2nd and 3rd week of September.

3. The application of the minimum wages as determined by this act shall not apply to contracts amounting to less than \$10,000.

4. The structure of the Minimum Wage Rate on Construction Projects Board was changed to include the Commissioner of Labor and Industry who will represent the public, a representative of labor from the building trades, one from labor engaged in the highway and heavy construction trades, one from the highway and heavy contractors and one from the building contractors.

5. The last section of the act pertains to "exceptions" and is as follows:

"Whenever a public works construction is built in whole or in part by federal funds and is under the

Major  
Revisions

jurisdiction of the Davis-Bacon or other Federal Act which requires the Secretary of Labor to establish the minimum wage and such minimum wages are established by him, sections 1304 to 1313 shall not apply."

1973 - Ch. 233 -- This Act provided for cooperation between the Bureau and the U. S. Department of Labor when both agencies are seeking the same wage information for the purpose of setting wage rates for public contracts. It read as follows: "The Bureau of Labor and Industry may exchange wage finding information with the United States Department of Labor where the Secretary of Labor is required to establish the minimum wage rates as defined in section 1314."

## BEDDING; UPHOLSTERED FURNITURE

The first statute pertaining to the above title appears in the Public Laws of 1929. It was designed as a health measure and its enforcement was placed in the state department of health. A digest of the statute is as follows:

1929 - P. L. Ch. 287, Sec. 1 stated that "No person shall manufacture for sale, sell, lease, offer to sell or lease, or deliver or consign in sale or lease . . . any mattress which in making, or remaking has been filled with any material of which prior use has been made, unless since last used such material has been thoroughly sterilized and disinfected by a reasonable process . . . and unless such mattress shall bear securely attached thereto a substantial cloth tag upon which shall be plainly and indelibly stamped or printed in English, a statement showing that the material so used is secondhand in part or in whole, as the case may be, and that it has been disinfected or sterilized according to law.

Sec. 2 - State department of health charged with enforcement. "The state department of health is charged with the enforcement of this act . . . shall have the power to seize . . . any mattress made, remade, or offered for sale . . . "

Sec. 4 - Penalty for violation. Any person violating any provision of this act shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not less than ten dollars and not more than fifty dollars for each offense.

1930 - R. S. Ch. 22, Sec. 145-159 -- No change from the previous statute of 1929.

1933 - P. L. Ch. 1 -- Sections 55 through 59 contained a minor change for clarification, it being a rephrasing of a small part of the statute.

1935 - P. L. Ch. 84 -- Sec. 2 through 5 amended the previous statute by including pillows as covered by the law.

1944 - R. S. Ch. 22, Sec. 147-151 -- Sec. 147 through 151 brought through the previous statutes in a revised form.

1947 - P. L. Ch. 330 -- The title of this chapter is "An Act Relating to the Manufacture and Sale of Bedding and Upholstered Furniture." It is a major revision of the previous statute relating to bedding. It repealed and replaced R. S. Ch. 22, Sec. 147-151.

The first major change is that upholstered furniture is now covered by statute. Coverage is indicated as follows:

"Sec. 147. Definitions.

"I. 'Article of bedding' in sections 147 to 151-C, inclusive, shall mean any mattress, upholstered box spring, pillow, comforter, cushion, muff, bed quilt or similar article designed for use for sleeping purposes.

"II. 'Article of upholstered furniture' in sections 147 to 151-C, inclusive, shall mean chairs, sofas, studio couches and all furniture in which upholstery or so called filling or stuffing is used whether attached or not."

The section went on to define "new," "secondhand," "person" and "department," the department being "health and welfare."

Requirement for sterilization of secondhand materials and the use of white cloth tag on articles containing new material and a yellow cloth tag on articles containing secondhand materials were set forth. It was further required that "an adhesive stamp, prepared and issued by the department" shall be affixed to the cloth tag.

The balance of the chapter related to administration and enforcement and penalty, it being increased from \$10 to \$50 as previously provided, to \$10 to \$100.

1953 - P. L. Ch. 35 -- This Chapter repealed the previously indicated statute governing the manufacture and sale of bedding and upholstered furniture.

1953 - P. L. Ch. 333 -- This Chapter amended the Revised Statutes as follows: "Chapter 25 of the revised statutes, as amended, is hereby further amended by adding thereto 8 new sections to be numbered 123 to 130, inclusive, to read as follows." The subsequent sections were the same in substance as those previously repealed. The major difference was that the enforcement of the new statute was now placed in the Department of Labor and Industry.

1954 - R. S. Ch. 30, Sec. 155-162 -- These sections brought through the equivalent sections from the 1944 revised statutes.

1955 - P. L. Ch. 151 -- This Act relates to definitions and administration of bedding and upholstered furniture laws.

Sec. 1 amends Sec. 155, sub par. 1 of the Revised Statutes by adding "Article of bedding" in sections 155 to 162, inclusive, shall also mean any glider, hammock, chaise lounge or other substantially similar article which is wholly or partly upholstered,"

Sec. 2 adds a new section numbered 11-A, to read as follows:  
11-A. "Cushion" in sections 155 to 162, inclusive, shall mean any bag or case made of leather, cotton or other textile or plastic material, which is filled in whole or in part with concealed material, capable of use for sitting, sleeping, resting or reclining purposes but does not include any seat or cushion which is used as an integral part of any automobile, truck, bus, airplane, railroad equipment or on any mechanized equipment used generally in the construction industry or in agriculture."

1963 - P. L. Ch. 49 -- This is entitled "An Act Relating to Stuffed Toys."

Sec. 1 adds a new sub-section VII to Sec. 155, Ch. 30 of the Revised Statutes to read as follows: "VII, Stuffed Toy. 'Stuffed toy' shall mean any article intended for use by infants or children as a plaything which is filled with or contains any fiber, chemical or other stuffing. "

1969 - P. L. Ch. 149 -- An Act Revising the Bedding and Upholstered Furniture Law.

Sec. 1 - Repealed the last sentence of Sec. 83 of Title 26 of the Revised Statutes so that revenues from the Bedding; Upholstered Furniture Law are no longer dedicated funds but go to the General Fund.

Sec. 2 - Repealed Sec. 111 of Title 26 of the Revised Statutes and replaced it with a new section. Importers were included in the coverage. An important change was the elimination of the stamp provision and the substitution in its place of a

registration requirement. The new section reads as follows:

"Sec. 111. Registration.

"Manufacturers or Importers of all articles of bedding or upholstered furniture or cushions as defined in section 81, manufactured or imported into this State for sale in this State, shall register with the department on forms provided by the department. The forms shall set forth, among other items, the name and address of the manufacturer or importer, the type of articles manufactured or imported, the composition of the stuffing and such other information as the department may require. A fee of \$50 shall accompany each initial registration. This registration shall be valid only for the calendar year in which it is issued and may be renewed by filling out such forms as shall be prescribed by the department, which form shall be accompanied by payment of a fee of \$50."

Sec. 4 - This section provides that the name of the manufacturer or vendor be stamped on the required label.

Sec. 7 - This section reads as follows:

"Sec. 115. Requirement of certificate of registration for sale. Only bedding, upholstered furniture and cushions for which the manufacturer or importer has been issued a certificate of registration as provided in section 111 may be sold or distributed in this State."

1973 - P. L. Ch. 555 -- Sec. 1 of this Chapter provided a lower cost license for "any individually owned business in this State manufacturing cushions . . . whose gross income from the sale of these products is under \$1,500 per year", the fee for such licenses to be \$5.



## STUFFED TOYS

1963 - P. L. Ch. 49 -- An Act Relating to Stuffed Toys.

Sec. 1 - Sec. 155 of Ch. 30 of the Revised Statutes is amended by adding a new subsection VII, to read as follows: "VII. Stuffed Toy. 'Stuffed toy' shall mean any article intended for use by infants or children as a plaything which is filled with or contains any fiber, chemical or other stuffing." The effect of this chapter was to include stuffed toys with the articles covered by the Bedding; Upholstered Furniture Law.

1965 - P. L. Ch. 106 -- The effect of this chapter was to remove stuffed toys from the Bedding; Upholstered Furniture Law. A new subchapter 1-A was added to Ch. 5 of Title 26 of the Revised Statutes.

Sec. 123 - "Administration and rules and regulations. The department is charged with the administration and enforcement of this subchapter; and may make and enforce reasonable rules and regulations which will insure that stuffed toys offered for sale in the State shall be clean and free from dangerous or harmful substances and for the enforcement of this subchapter, and shall have the power through its officers or agents to take for analysis samples of stuffed toys from manufacturers, retailers or distributors thereof without compensation."

Sec. 131 - "Registration. Manufacturers of all stuffed toys manufactured in this State or intended for sale, gift or use in this State shall register with the department on forms provided by the department . . . A fee of \$50 shall accompany each registration . . . "

Sec. 133 - "Material and processed material. All material used in stuffed toys shall be new and free from dangerous or harmful chemicals or other substances . . ."

1967 - P. L. Ch. 74 -- An Act including importers in Stuffed Toy Law.

Sec. 2 - This section amended Sec. 122 of Title 26 of the Revised Statutes, as enacted by Sec. 3 of Ch. 106 of the Public Laws of 1965, by adding a new subsection 6 to read as follows:

"6. Importer. 'Importer' shall mean any person or persons who brings or carries into this State, from abroad, stuffed toys intended for sale, gift or use in this State."

1969 - P. L. Ch. 77 -- An Act Eliminating Dedicated Funds from Stuffed Toy Law. This Act provided that "All fees and other moneys collected in the administration of this subchapter shall be credited to the General Fund."

1973 - P. L. Ch. 555 -- Sec. 2 of this chapter provides a lower cost license for "any individually owned business in this State manufacturing the type of stuffed toys" covered by the law "and whose gross income from the sale of these products is under \$1,500 per year", the fee for such licenses to be \$5.

## FAIR EMPLOYMENT PRACTICE ACT

1965 - P. L. Ch. 513 -- This Chapter was enacted by the Special Session of 1966. It was "to Correct Errors and inconsistencies in the Public Laws."

Sec. 47 of the above Act amended Ch. 7 of Title 26 of the Revised Statutes by adding a new subchapter VIII.

The title of subchapter VIII is "Fair Employment Practice Act." It determines the "Right of freedom from discrimination in employment" and states that "The opportunity for an individual to employment for which he is qualified without discrimination because of race, color, religious creed, ancestry, age or national origin is hereby recognized as and declared to be a civil right which shall be enforcable only as set forth in this subchapter."

The Act then went on to define "unlawful employment practices," outline the procedure to follow in making a claim and establishing the penalty, which is "a fine of not less than \$100 nor more than \$250 for each and every violation."

1971 - P. L. Ch. 501 -- This chapter established the Human Rights Commission "to prevent discrimination in employment, housing or access to public accommodations on account of race, color, religion, ancestry or national origin and in employment, discrimination on account of age." This is an autonomous Commission and not part of any established department of state government. Sec. 3 of this chapter repealed the Fair Employment Practice Act in Title 26.

## STRIKEBREAKERS

1965 - P. L. Ch. 189 -- The title of this Chapter is "An Act Prohibiting Employment of Professional Strikebreakers to Replace Employees Involved in Labor, Strikes or Lockouts." Specifically, it amends Ch. 7 of Title 26 of the Revised Statutes by adding a new subchapter VII. The Act establishes the policy of the State as assuring "all persons involved in labor strikes or lockouts, freedom of speech and freedom from bodily harm and to prohibit the occasion of violence and disorder and in furtherance of these policies, to prohibit the recruitment and furnishing of professional strikebreakers to replace the employees involved in labor, strikes or lockouts."

Additional sections prohibited the employment of replacements or to make arrangements for such replacements. In addition, "No person who customarily and repeatedly offers himself for employment in place of employees involved in a labor, strike or lockout shall take or offer to take the place of employment of any employee involved in a labor, strike or lockout."

## AN ACT REGULATING INDUSTRIAL HOMEWORK

1949 - P. L. Ch. 283 -- This Chapter added 18 new sections to Ch. 25 of the Revised Statutes of 1944. It defined Industrial homework as "any manufacture in a home for an employer." It prohibited the manufacture of certain articles in the home such as tobacco, drugs and poisons, bandages and other sanitary goods, explosives, fireworks and articles of like character. Under the Act the Commissioner of Labor and Industry, following receipt of proper petition, had the duty to investigate homework in any industry. If such investigation revealed danger to the health of the workers and a deterioration of existing labor standards within the industry, following a public hearing, the commissioner could prohibit industrial homework in such industry. The Act set up the many requirements such as employer's permits, fees, records, conditions of manufacture and others.

1951 - Ch. 281 -- This Chapter repealed the above chapter relating to Industrial homework.

## CONCLUSION

The development of labor laws in the State of Maine has been slow. There is also a degree of irregularity in the introduction and adoption of such legislation. There is nothing strange in this finding. Maine was and has continued to be, basically an agricultural state. While the value of product points to the increasing importance of industrial development, nevertheless there has always been and still is a strong orientation to the rural areas and to the small towns. Under such conditions it follows that the need for legislation to protect and to advance the cause of a labor force was not quickly realized. This rural predominance caused sympathy for the problems of the factory worker to be held to a minimum level. A reflection of this early attitude appears in present day statutes in the form of exemptions for agriculture. Specific examples are found in our minimum wage law, our elevator exemptions and others.

The fact that agriculture provided the majority of the work opportunities for male labor was reflected in the type of work force available to staff our factories. Children predominated in this field and in most cases the employment of children was condoned by and many, many times actively encouraged by parents. With production schedules to be met, it was inevitable that the youthful employees were working long hours and at the end of the day there was neither time nor energy for pursuits of an education. We were bringing up a generation of young people without giving them either the time or the opportunity to acquire other than the bare rudiments of learning. In this regard we find that

Governor John W. Dana stated in his message to the Legislature in the year 1847 that "A large proportion of our population expect no education for their children except that they may be able to read and write intelligibly, and acquire the rudiments of mathematics. This they feel will be secured during the period of their minority, even without effort; and beyond this they have no hope."

The preponderance of children in the industrial labor force brought about a gradual realization on the part of the people that the educational needs of the State's youth were being neglected. If allowed to continue, we were well on our way to developing a future population, if not illiterate, then certainly short of the minimum essential elements of necessary mental competence. It was the development of a social consciousness more than any other factor that centralized on the problems of child labor and from this beginning came the gradual but irregular development of a body of labor laws. These laws followed the industrial development of the state to meet the needs of workers and were developed and established with the public conscience being the prime motivating force. Our research does not indicate that individual leadership came from individuals or groups identified as industrial leaders or forceful labor representatives. Many attempts to improve the lot of the worker were resisted by management while labor organizations in Maine did not have the organization or strength to be felt very forcibly.

Other states met with experiences similar to that of Maine and it was in the field of child labor that the whole development of labor legislation really began. This awakening to the need of sound laws to correct what was an enslavement of child labor occurred in other states

before it did here. These states were older and their industrial growth was more firmly established but the situations were the same and the need for corrective procedures were quite urgent.

The passage of labor laws in Maine did not follow a steady pattern. There were years when no such laws were passed. There were others of limited production. It should be noted, however, that other than the period of from 1907 to 1916 inclusive when a moderate amount of legislation was passed that the bulk of the labor laws were put on the books during the period from 1941 to 1961 inclusive. One reason for this increase in labor legislation is that the industrial segment of Maine's economy is slowly on the increase. There are about 414,000 workers in the Maine labor force; approximately 75,000 of those, or 18%, are organized and belong to a union. The organized labor force is the segment that applies pressure to the passage of laws favorable to its position. To the extent that Maine is part of the New England area, progress made by organized labor in the more heavily populated and industrialized sections is reflected in this state. Permanently employed workers in Maine receive fringe benefits that are pretty much standard for the New England area. Many industrial workers usually receive from one to three weeks of paid vacation per year depending on length of service. Sick leave normally accumulates at the rate of one day per month. Generally, group insurance plans of various types are optional, with the premium payments shared by the employee and employer. In some instances the employer assumes most, or even all the cost of the insurance plan. This of course varies with the industry involved.



Agriculture as an industry has been going through many changes. Like all industry the price, cost factor has applied pressures that have resulted in great technological change. More and more food is being raised by fewer and fewer people. Unit costs are brought down. Machinery performs much of the work formerly done by hand labor. The farm population is gradually moving from the rural areas to the more urban centers. This population is being gradually absorbed into the industries and service businesses. This can only result in more emphasis being directed to the welfare and progress of people identified in these industries. As such a shift progresses it can be expected that increased support will be given to the working conditions of people engaged in such industries with increased legislative proposals.

In relation to periods of economic well-being it would appear that more progress is made in the securing of labor legislation during these periods than in times of lesser prosperity. This is due to a willingness on the part of organized labor to ask for more advanced concessions during a period when jobs are plentiful. Management is less resistant when business is good and profits are up. Thus we see that more labor laws come into being during periods of relative prosperity. The previously mentioned years of from 1907 to 1916 and 1941 to 1961 were definitely periods of economic growth with the latter one most definitely an era of technological advance and business expansion. It should be noted that the first period is just prior to this country's entrance into World War 1 and the second period covers our direct involvement in World War II and the subsequent years. The pressures of a military conflict result in new scientific advances, new products with resulting commercial activity

and gains in productivity. This type of development means several things to a labor force. There is some increase in employment. There is also a distinct growth in new types of job, with a demand for new skills. Again this tends to improve the bargaining position of the laboring force and eventually leads to an increase in the demand for and ultimate passage of labor legislation.

Looking into the future to determine the extent of labor law legislation there are two trends to note. The first is the percentage decrease in union membership in relation to the overall labor force. This has come about because of a shift of employment from the production industries to the service industries. Since 1950 the number of people employed in the services has exceeded those engaged in production work. The gap is expanding yearly. While the pace of unionization in the service type of industry is less than in the heavy industries the trend is for unions in the service industries to represent a growing share of total union membership, while that of unions in the manufacturing industries will shrink. As service industries are local in character, collective bargaining in this type of business could have an impact of a local nature and thus the national aspects of big strikes will be lessened.

Another development that may affect the future trend of labor legislation is the growth of four employment groups that may create special problems in labor relations. These groups are persons under twenty-five years of age, women, professional and clerical workers, and government employees -- federal, state and local. Women and the young workers bear a disproportionate share of unemployment during times of general unemployment. Women and professional and clerical workers are the

groups traditionally most difficult to unionize. But collective bargaining by public employees is on the increase at all levels and the number of public employees has risen steadily over the years.

As the increase in employment shifts to those areas which require more education and training it would appear that effective personnel management may require a substantially different approach than when the unskilled, semi-skilled and skilled occupations were predominant. Regardless of the changes that lie ahead, we may reasonably expect that labor and management, particularly in Maine, will resolve occurring differences and that industrial development will take place and that the desires of reasonable men to function realistically will prevail.

- A D D E N D U M -

TERMS of COMMISSIONERS  
of the  
DEPARTMENT OF LABOR AND INDUSTRY

SAMUEL W. MATTHEWS	1887 - 1907
THOMAS J. LYONS	1907 - 1911
JOHN F. CONNELLY	1911 - 1913
ROSCOE A. EDDY	1913 - 1924
CHARLES O. BEALS	1924 - 1937
JESSE W. TAYLOR	1937 - 1947
MARION E. MARTIN	1947 - 1972

TERMS of DIRECTORS  
of the  
BUREAU OF LABOR AND INDUSTRY

HAROLD S. NODDIN	1973 -
<i>Marvin Ewing</i>	
<i>Daniel Coyne</i>	
<i>James McGowan</i>	
<i>Alan Husey</i>	
<i>Michael Frett</i>	
<i>William Peabody</i>	

## DEPARTMENT OF MANPOWER AFFAIRS

In 1971, a number of reorganization bills were enacted. The aim was to consolidate the proliferating departments, bureaus, commissions and boards into a smaller number of super departments, each to be headed by a Commissioner whose term of office would be coterminous with the Governor's. The theory was that the Governor would have better control over the bureaucracy if he had fewer agency heads reporting to him and had his own appointees heading the departments. There was also a hope for better efficiency and a financial saving through elimination of overlapping and duplication of effort.

P. L. 1971, Chapter 499, created and established the Department of Manpower Affairs "to achieve the most effective utilization of the manpower resources in the State by developing and maintaining an accountable state manpower policy, by insuring safe working conditions and protection against loss of income and by enhancing the opportunities of the individual to improve his economic status." Included in the new department were the Employment Service Division of the Employment Security Commission, Department of Labor and Industry, Maine Manpower Advisory Committee, Co-operative Area Manpower Planning System, and the Manpower Training Division of the Bureau of Vocational Education of the Department of Education.

This was a preliminary bill and provided that the Joint Select Special Committee of the Legislature on Governmental Reorganization would, with the assistance of the commissioner, prepare a plan of organization of the department and prepare legislation to be presented at a special session to amend, repeal and rearrange statutes to reflect the department's powers, responsibilities and organization.

P. L. 1972, Chapter 620 was the result of this preparation. Sec. 1 changed the title of the Commissioner of Labor and Industry to Director and provided the appointment be made by the Commissioner of Manpower Affairs with the advice and consent of the Governor and Council rather than by the Governor as heretofore.

Sec. 12 indicated the makeup of the Department which was somewhat different than the original plan. It included the entire Employment Security Commission rather than only the Employment Service Division, and provided that the Commissioner would also be chairman of the MESC.

The effective date was July 1, 1972. The Governor appointed Emilien A. Levesque as the first Commissioner of the new Department of Manpower Affairs.

## RELATED GOVERNMENT AGENCIES

The following are agencies of state government whose work is related to that of the Bureau of Labor and Industry.

### MAINE EMPLOYMENT SECURITY COMMISSION

This agency concerns itself with the problems of unemployment and the resultant effects on the worker. In addition to administering a compensation program, it also operates free public employment offices in affiliation with a nationwide system of public employment services.

The first passage of major legislation creating the Employment Security Commission came with P. L. 1935, Ch. 192. This statute was approved on December 18, 1936. This act was designed to create a sound unemployment compensation law to encourage employers to provide more steady work, to maintain the purchasing power of workers becoming unemployed, and thus to prevent and limit the serious social consequences of poor relief assistance. The above noted act was amended each legislative year until 1949. At this time, P. L. 1949, Ch. 430 repealed existing law and enacted in its place a new chapter known as the "Employment Security Law." This law also was amended at each succeeding session of the legislature. The changes basically were to provide more liberal benefits and less rigid disqualification rules.

P. L. Ch. 620 brought the Commission under the Department of Manpower Affairs, with the Commissioner of Manpower Affairs also being chairman of the MESC.

## INDUSTRIAL ACCIDENT COMMISSION

The Industrial Accident Commission has the responsibility to enforce the Workmen's Compensation law. The theory of this law is to lift the burden of industrial accidents from injured workmen and their dependents, and place it on industry. The original law was passed in 1915, it being P. L. 1915, Ch. 295 and was approved April 1, 1915. This law has been amended at nearly every legislative session since originally passed, the exceptions being the years 1931, 1933 and 1947. It is interesting to note the large number of cases that have gone to the Law Court for clarification.

The director of the Bureau of Labor and Industry is ex officio member of the Industrial Accident Commission as is the commissioner of Insurance. It is the director of the Bureau of Labor and Industry who is responsible for approving all Industrial Accident Agreements.

## EMPLOYERS LIABILITY ACT

The Employers Liability Act defines the employer's liability and also the rights of the employee if personal injury is caused to an employee under certain conditions. These conditions are (1) Defects in ways, works or machinery; (2) Negligence of employee in superintending capacity; (3) Negligence of employee in charge of railroad engines, etc.

The original act was passed as P. L. 1909, Ch. 258. There have been no revision but there have been many Law Court decisions.



## PLANT PROTECTION

The Plant Protection Act was enacted by P. L. 1961, Ch. 298 and it revised R. S. 1954, Ch. 136 by being added to it as a new section. The statute to which it was added is titled "Crimes against Public Peace and Tranquillity." The new section made it unlawful to conduct mass picketing to prevent maintenance or movement of perishables. There have been no revisions.

## PEACEFUL USES OF ATOMIC ENERGY

The Maine statute relating to Peaceful uses of Atomic Energy was passed and appears as P. L. 1955, Ch. 105 and was titled "An Act to Coordinate Development and Regulatory Activities Relating to the Peaceful Uses of Atomic Energy." This act endorsed the action of the Congress of the United States in enacting the Atomic Energy Act of 1954 which instituted a program to stimulate the development of atomic energy for peaceful purposes. It was specifically provided that, if needed, the Department of Labor and Industry should make studies and recommend changes in the laws and regulations administered by it, particularly as to hazardous working conditions arising out of any atomic development activity that might take place.

There has been one revision, namely, P. L. 1957, Ch. 210. There were two essential changes brought about by this revision. The first

provided that "source materials" and "other forms of radiation" be specifically named where appropriate. The second change provided for the authorization of agreements and cooperative arrangements between any appropriate department or agency of State government and the Federal government to perform functions on behalf of the Federal government as agreed upon by both parties in the field of atomic energy.

The End